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S. 2489, THE SMALL BUSINESS COMPETITION ENHANCEMENT ACT OF 1984; AND S. 2434, A BILL TO AMEND SECTION 15 OF THE SMALL BUSINESS ACT BY REQUIRING THE ASSIGNMENT OF BREAKOUT PROCUREMENT CENTER REPRESENTATIVES

HEARINGS

BEFORE THE

COMMITTEE ON SMALL BUSINESS
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

S. 2489, THE SMALL BUSINESS COMPETITION ENHANCEMENT ACT OF 1984; AND S. 2434, A BILL TO AMEND SECTION 15 OF THE SMALL BUSINESS ACT BY REQUIRING THE ASSIGNMENT OF BREAKOUT PROCUREMENT CENTER REPRESENTATIVES

APRIL 6 AND 12, 1984

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S. 2489, THE SMALL BUSINESS COMPETITION ENHANCEMENT ACT OF 1984; AND S. 2434, A BILL TO AMEND SECTION 15 OF THE SMALL BUSINESS ACT BY REQUIRING THE ASSIGNMENT OF BREAKOUT PROCUREMENT CENTER REPRESENTATIVES

FRIDAY, APRIL 6, 1984

U.S. SENATE,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The committee met, pursuant to notice, at 10:02 a.m., in room SR 428A, Hon. Lowell Weicker, Jr. (chairman of the committee) presiding.

Present: Senators Weicker, Boschwitz, and Dixon.

Staff present: William B. Montalto, procurement policy counsel; Alan L. Chvotkin, minority chief counsel; Charles Smith, legislative assistant to Senator Dixon; and Dorthy C. Olson, hearing clerk.

STATEMENT OF HON. LOWELL WEICKER, JR., A U.S. SENATOR FROM THE STATE OF CONNECTICUT, AND CHAIRMAN, SMALL BUSINESS COMMITTEE

The CHAIRMAN. Good morning. The hearing will come to order.

The Committee on Small Business is meeting today to consider S. 2489, the Small Business Competition Enhancement Act of 1984.

Along with Senator Dixon, I introduced this legislation last week, and other Members of the committee also have cosponsored it, because we believe that American small businesses have the capability to provide the Government with quality products—including spare and replacement parts—in a timely fashion, at competitive prices.

However, under present procurement practices, many competent small firms are not given a fair shake at competing in the Federal marketplace.

So, very simply put, this bill would increase competition and remove those regulatory or procedural obstacles now encountered by small firms who would like to sell their products to Government agencies.

S. 2489 does not include any new small business set-aside programs. Small businesses do not need that type of congressional assistance. Rather, this legislation integrates the concept of competition into the planning of future major systems requirements without compromising the legitimate needs of Federal agencies or contractor rights.

Let me make one other point. Enactment of this legislation will benefit the American taxpayer as much as it will benefit the small business community. I believe that the American people deserve better than a Government that pays exorbitant prices for the goods it purchases.

This week alone I have received dozens of letters that make this very point. I want to read you a letter that I got from one of my constituents. It is dated March 29. It is from a William Hammerstein of Reading, CT. He says—this is the letter here. It has two screws attached to it by a piece of tape. It says:

> Dear Senator Weicker: As we get close to income tax time and I realize how much of my tax money will be used to buy more $50 screws for the Defense Department instead of school lunches, aid to the really needy, and to keep bridges from falling down, it occurs to me that at little or no expense on my part, I can contribute an additional $100.

[Laughter.]

> So I am sending you these two screws with the request that you forward them to some really needy defense workshop. Ask Mr. Weinberger to help locate a nice tank, plane, or bomb that these will fit. You might even suggest, if the screw fits, wear it.

[Laughter.]

> Sincerely, your appreciative constituent, William Hammerstein.

I know of another case where a taxpayer arrived at his local IRS office and asked if he could pay his tax bill of about $800 with two hammers. [Laughter.]

He understood the Pentagon is willing to pay about $400 apiece for them.

While we may laugh at these stories, they show the growing public dissatisfaction with procurement practices that spawn such abuses. I believe that this bill will solve many of them.

I look forward to hearing from our witnesses today about the scope of the problem and their analysis of S. 2489 as a practical and cost-effective legislative solution.

[The prepared statement of Senator Weicker follows:]

STATEMENT OF HON. LOWELL WEICKER, JR., A U.S. SENATOR FROM THE STATE OF CONNECTICUT, AND CHAIRMAN, SMALL BUSINESS COMMITTEE

Good Morning. This hearing will come to order.

The Committee on Small Business is meeting today to consider S. 2489, the Small Business Competition Enhancement Act of 1984. I introduced this legislation last week, along with Senator Dixon and several other members of this committee, because I believe that American small businesses have the capability to provide the Government with quality products—including spare and replacement parts—in a timely fashion, at competitive prices. However, under present procurement practices, many competent small firms are not given a fair shake at competing in the Federal marketplace.

So, very simply put, this bill would increase competition and remove those regulatory or procedural obstacles now encountered by small firms who would like to sell their products to Government agencies. S. 2489 does not include any new small business set-aside programs. Small businesses do not need that type of congressional assistance. Rather, this legislation integrates the concept of competition into the planning of future major systems requirements without compromising the legitimate needs of Federal agencies or contractor rights.

WILLIAM HAMMERSTEIN

Senator Lowell P. Weicker, Jr.
United States Senate
Washington, D.C. 20515

March 29, 1984

Dear Senator Weicker:

As we get close to Income Tax Time and I realize how much of my tax money will be used to buy more Fifty Dollar Screws for the defense department, instead of school lunches, aid to the (really) needy and to keep bridges from falling down, it occurs to me that at little or no extra expense on my part I can contribute an additional $100.00.

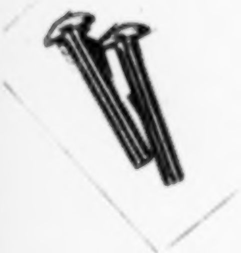
So I'm sending you these two screws with a request that you forward them to some (really) needy defense workshop. Ask Mr. Weinberger to help locate a nice tank, plane or bomb that these will fit. You might even suggest, "If the screw fits, wear it".

Thanks for being such a darn good senator!

Sincerely,

Your Appreciative Constituent,

William Hammerstein



William Hammerstein
P.O. Box K
Redding, Connecticut 06875

And let me make one other point. Enactment of this legislation will benefit the American taxpayer as much as will benefit the small business community. I believe that the American people deserve better than a government that pays exorbitant prices for the goods it purchases. This week alone I have received dozens of letters that make this very point. One of my constituents writes:

And I know of another case where a taxpayer arrived at his local IRS Office and asked if he could pay his tax bill of about $800 with two hammers: He understood that the Pentagon was willing to pay about $400 apiece for them. While we may laugh at these stories, they show the growing public dissatisfaction with procurement practices that spawn such abuses. I believe that this bill will solve many of them.

I look forward to hearing from our witnesses today about the scope of the problem and their analysis of S. 2489 as a practical and cost-effective legislative solution.

The **Chairman**. First of all, I want to pay my special respects to Senator Dixon. He is the gentleman on this committee who has been out front in pursuing this legislation.

Second, it is said that this session of the Congress is not going to do much because it is an election year. Well, I suggest that those running for election had better get onboard, because I intend to get this bill out of committee as fast as I can, onto the floor, and passed by the U.S. Senate, and I suspect that those who want to delay it or be against it will find that it is an election year issue, and it should be.

What has been unearthed over the past year is a disgrace, and I have constituents involved in this as much as anybody else does on both sides of this question. The only part of the question that deserves our attention is how the taxpayers' money in this Nation is being used.

Now, we have as our first witness the SBA Administrator, Jim Sanders, who is accompanied by Mr. Frank Miller, Breakout Procurement Center Representative, Small Business Administration, Oklahoma Air Logistics Center. Is Mr. Derek Vander Schaaf with you?

Mr. **Vander Schaaf**. I am here. If you want me at the table I can do that. However, you want to proceed.

Mr. **Sanders**. I have asked Mr. Hathaway to join me.

The **Chairman**. Don Hathaway?

Mr. **Sanders**. Right.

The **Chairman**. All right, good. And Don, what is your function?

Mr. **Hathaway**. I am the SBA liaison officer to the Department of Defense. Although I am employed by and work for Mr. Sanders, I am located at the Pentagon.

The **Chairman**. Let me just run through who it is that will be testifying. Jim has already identified those accompanying him. Next will be Mr. Derek Vander Schaaf. After that will be Mr. Paul Math, associate director of the National Security and International Affairs Division of the U.S. General Accounting Office, and then last, Mr. Richard Ludwig, president of the Lavelle Aircraft Co. of Newtown, PA.

I welcome all of you to these hearings this morning. Let's get to the meat of the subject. It is Friday. But let's get the facts out on the table.

Jim.

STATEMENT OF HON. JAMES C. SANDERS, ADMINISTRATOR, SMALL BUSINESS ADMINISTRATION, ACCOMPANIED BY DON HATHAWAY, SBA LIAISON OFFICER TO THE DEPARTMENT OF DEFENSE

Mr. **Sanders**. Thank you, Mr. Chairman.

I would like to thank you and the committee for the interest that you have taken in increasing procurement opportunities for small business within the Department of Defense, particularly, as well as for other agencies. Certainly this bill exemplifies an approach to the problem, and we appreciate your interest in it.

I have with me, as you know, Mr. Frank Miller, who is one of our breakout Procurement Center Representatives [PCR's]. Frank will share with you examples of spare parts that have been successfully broken out and the cost savings that were derived.

During the committee's questioning, I am sometimes going to ask Mr. Hathaway to give some detailed explanations of some of the procedures involved in this art form known as "procurement."

SBA initiated the Breakout Program as a pilot program designed to significantly expand opportunities for small business to manufacture and supply spare and repair parts necessary to maintain defense weapons systems for all three military services.

This SBA initiative has been carried out thus far primarily at four of the five Air Force Logistics Centers which are responsible for the repair and maintenance of the U.S. Air Force fleet and supporting equipment. An onsite SBA representative with special qualifications, which include engineering expertise and an in-depth knowledge of small business manufacturing capabilities in the aircraft component industry, is charged with the responsibility to review available technical data on aircraft spare and repair parts designated by the Air Force for acquisition from only the large business prime system contractors.

When the SBA representative determines that small firms could satisfactorily produce these parts, action is taken by SBA to open the procurement competition, including small business manufacturers.

A GAO report corroborated that during the first 18 months of the program's operation at three air logistics centers, 294 separate breakout actions were effected. In the procurement of 181 of the 294 items, an average of 38.5-percent savings of acquisition dollars was realized from the price paid for the previous acquisition. This amounts to $6.5 million to $7 million reduction ($17 million to $10 million).

Fiscal year 1983 data show that $35.8 million in savings reported by the four SBA representatives, one having been added at another air logistics center, were realized. As significant and important, from a small business viewpoint, was the fact that, of the acquisitions verified by the GAO report, 84 percent were awarded to small business, and competition had been introduced into 82 percent of the procurements. This fact is vitally significant to the maintenance and improvement of the industrial/supply base.

There are additional centers of Army, Navy, Air Force and Defense Logistics Agency at which both large savings and improvement in the industrial/supply base could be most effectively realized.

There are approximately 3.9 million spare/repair parts in the DOD inventory. Currently, only about 300,000 are open to full competitive bidding. The potential for increased competition, expansion of the industrial/supply base, and dollar savings are virtually unlimited through the application of the breakout process.

In recognition of this potential, I authorized an additional 10 breakout PCR's on February 10, 1984. The cost of the 10 additional PCR's will be approximately $512,000, including salary and benefits. This figure is minuscule compared with the savings already effected and the anticipated tens of millions of dollars in savings as the program expands.

It is important to note that the "breakout" PCR and the "traditional" PCR serve different roles and perform substantially different functions at the activity to which they are assigned. Both breakout PCR and traditional PCR functions are necessary and essential at DOD spare parts acquisition centers.

The traditional PCR should not be expected to perform the breakout functions, and vice versa. The past performance on our breakout PCR's and the tremendous dollar savings they have achieved reinforce the belief that breakout PCR's are vital to the small business community.

Mr. Chairman, I would like at this time to have Frank Miller share with you some of his experiences at the Oklahoma City Air Logistics Center and how the Breakout Program has saved the American taxpayer millions of dollars.

[The prepared statement of Mr. Sanders follows:]

STATEMENT OF HON. JAMES C. SANDERS, ADMINISTRATOR, SMALL BUSINESS ADMINISTRATION

Mr. Chairman, I appreciate the opportunity to appear before you today to discuss SBA's Breakout Program.

I have with me Mr. Frank Miller, one of our Breakout Procurement Center Representatives, Frank will share with you examples of spare parts that have been successfully broken-out and the cost savings that were derived.

SBA initiated this as a pilot program designed to significantly expand opportunities for small business to manufacture and supply spare and repair parts necessary to maintain defense weapons systems for all three military services. This SBA initiative has been carried out thus far primarily at four of the five Air Force Logisitics Centers which are responsible for the repair and maintenance of the U.S. Air Force fleet and supporting equipment. An on-site SBA representative with special qualifications, which include engineering expertise and an indepth knowledge of small business manufacturing capabilities in the Aircraft and Component industry, is charged with the responsibility to review available technical data on aircraft and spare/repair parts designated by the Air Force for acquisition from only the large business prime system contractors. When the SBA representative determines that small firms could satisfactorily produce these parts. Action is taken by SBA to open the competition to small business manufacturers.

A GAO report corroborated that during the first 18 months of this operation at the first three Air Logistics Centers, 294 breakout actions were effected. In the procurement of 181 items of the 294 an average of a 38.5% savings of acquisition dollars was realized from the price paid for previous acquisition. This amounted to 6½ to 7 million dollars reduction ($17 million to $10 million). F.Y. 83 data show $35.8 million in savings reported by the four SBA representatives, one having been added at another Air Logistics Center. As significant and important, from a small business viewpoint, was the fact that, of the acquisitions verified by the GAO report 84% were awarded to small business and competition had been introduced into 82% of the procurement. This fact is vitally significant to the maintenance and improvement of the industrial/supply base.

There are additional centers of Army, Navy, Air Force and Defense Logistics Agency at which both large savings and improvement in the industrial/supply base could be most effectively realized.

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It is important to note that the "Breakout" PCR and the "traditional" PCR serve different roles and perform substantially different functions at the activity to which they are assigned.

Both "Breakout" *and* "Traditional" PCR functions are necessary and essential at DOD spare parts acquisition centers. The "Traditional" PCR should not be expected to perform the Breakout functions and vice versa. The past performance on our Breakout PCRs and the tremendous dollar savings they have achieved reinforces the belief that the Breakout PCRs are vital to the small business community.

Mr. Chairman, I would like at this time to have Frank Miller share with you some of his experiences at the Oklahoma City Air Logistics Center and how the Breakout program has saved the American tax payer millions of dollars.

STATEMENT OF FRANK MILLER, BREAKOUT PROCUREMENT CENTER REPRESENTATIVE, SMALL BUSINESS ADMINISTRATION

Mr. MILLER. Mr. Chairman and members of the committee, my name is Frank Miller. I am one of the current Small Business Administration's four current procurement center representatives. I am assigned to the Oklahoma City Air Logistics Center.

It is my understanding that you would like for me to share with you today my firsthand experience with SBA's pilot breakout PCR Program, especially during fiscal year 1983.

I have brought for you today six examples which I will cover at the end of my statement.

Mr. Chairman, before I start, I would like to say that the opinions I express are my own and may or may not reflect the opinions of the Small Business Administration. Further, due to time restrictions, I will limit my remarks to the areas in your letter of invitation.

The first subject I speak to is prequalification requirements. Before someone raises the question, there are two types of qualified products lists. I am addressing those wherein the Air Force assigns a procurement method code that restricts competition to only prequalified sources. This is the type of qualified products list I would like to talk about.

It is true, in accordance with the M-4 clause (a clause in the standard Air Force solicitation) a potential source can request qualification either prior to or concurrent with his proposal. However, in the real world, about all he can hope for is that he will get qualified in time for the next procurement, but probably not the instant procurement. If the procurement is for repair or overhaul, then the probability of his getting qualified in time for the instant procurement is virtually zero.

The Small Business Administration and the Oklahoma City Air Logistics Center have developed a PNAPPL Program. [PNAPPL] is the acronym for (part number, advance procurement planning list) and are making substantial inroads into this prequalification problem by helping small business concerns proceed step by step through the qualification process.

This program publicizes the air logistics center's requirement for not only the balance of this fiscal year but for all of next fiscal year. PNAPPL's are widely distributed by the Small Business Administration representatives, Small and Disadvantaged Business Utilization Specialists at Tinker Air Force Base, (the location of Oklahoma City Air Logistics Center) and Tinker's Competition Advocate's office.

The next problem we run into is management of technical data. All sorts of frustrations arise from the Air Force policy of one central technical data repository. This policy was established back in the 1950's, and it would work if, and only if, the central repository had everything that the air logistics centers had, and the repository would accept "release of rights" as accomplished and reported by the individual air logistics centers.

As an example of this problem, on November 4, 1983, Arrow Gear Co. advised me that they had requested, as part of the PNAPPL program, technical drawings from Wright-Patterson Air Force Base (the location of the central technical data repository operated by the Air Force Logistics Command). Wright-Patterson advised Arrow Gear that 11 of the drawings they had asked for were not available—Wright-Patterson just didn't have them—and that 38 of the requested drawings were proprietary, and hence Wright-Patterson could not release them.

I reviewed Arrow Gear list at Tinker. I found four of the "unavailable" drawings at Tinker Air Force Base, and for two of these four technical drawings the Government had "unlimited rights;" and hence, they could have been released to Arrow Gear. I further found that 9 of the 38 technical drawings found to be "proprietary" by Wright-Patterson were not proprietary.

However, under existing regulations, Tinker will not release technical drawings. It is my understanding that the Air Force Logistics Command plans to authorize the various air logistics centers to disburse drawings and has targeted 1988 for implementation, following the acquisition of some additional computer capability.

The next problem that is very frustrating to open competition is the impact of "proprietary data." The problem arises from the Government accepting data that is just alleged to be "proprietary" by the contractor and then honoring that allegation, when in my own personal opinion, only about 10 percent of the data is really proprietary.

Mr. Chairman, another thought that comes to my mind is that all too often buyers wind up soliciting only the primes because they do not know who else to solicit. One solution to this problem lies in the PNAPPL Program that I previously mentioned another is a series of microfiche which identifies part number, name of the part, manufacturer, national stock number, et cetera.

Both of these systems were developed at the Oklahoma City Air Logistics Center by the Small Business Administration but are not currently available to buyers at the other air logistics centers.

I would suggest that the SBA and the competition advocate offices at the various air logistics centers orchestrate a training program to educate buyers in the effective utilization of these data systems.

The last problem or restraint that I would address is manpower to remedy the above-cited problems.

Mr. Chairman, as I indicated earlier, I have with me today some examples of the results of SBA's breakout PCR Program if you would care to see them.

[The prepared statement of Mr. Milier follows:]

STATEMENT OF FRANK MILLER, BREAKOUT PROCUREMENT CENTER REPRESENTATIVE, SMALL BUSINESS ADMINISTRATION

Mr. Chairman and Members of the Committee: My name is Frank Miller, and I am one of the current Small Business Administration's four Breakout Procurement Center Representatives. I am assigned to the Oklahoma City Air Logistices Center.

It is my understanding that you would like me to share with you today my first hand experience with SBA's Pilot Breakout PCR program especially during F.Y. 1983.

I have brought for you today only six examples which I will cover at the end of my statement.

Mr. Chairman, before I start I would like to say that the opinions I express are my own and may or may not reflect the opinions of the Small Business Administration. Due to time restrictions, I'll limit my remarks to the areas in your letter of invitation.

1. *Prequalification Requirements.*—Before someone raises the question, I'm only talking about the AFLCR 57-6 codes (other than "G") as "Qualified Products Lists parts" because a bidder is not considered to be responsive unless/until his name is on the Air Force Loistics Command Form 761.

It is true. In accordance with the M-4 clause of Air Force Logistics Command solicitations, that a "potential source" can request qualifications prior to, or concurrent with his proposal. However, in the real world about all he can hope for is that he will get qualified in time for the *next* procurement, but probably not the "instant" procurement. If the procurement is for repair/overhaul, then his chances are virtually zero, on the instant procurement.

The Small Business Administration/Oklahoma City Air Logistics Center "PNAPPL" is making substantial inroads into this problem, by helping small business concerns proceed "step by step" through the qualification process. This program publicizes the ALC's requirement for not only the balance of this fiscal year but all of next fiscal year and is being widely distributed by the SBA, SADBUS, and the Competition Advocate's office at TAFB on behalf of the SBA.

2. *Management of Technical Data.*—Frustrations arise from the Air Force policy of "one central repository" for data storage and distribution, which was established back in the mid 50's. This policy would work if, and only if, the central repository had everything the Air Logistics Centers had, and the repository would accept "Release of Rights" as accomplished/reported by the Air Logistics Centers.

As an example of the "problem": On 4 November 1983. Arrow Gear Company advised that they had requested, in accordance with step 7 of the Part Number Advanced Procurement Planning List, referenced as the PNAPPL Program, a list of drawings from Wright-Patterson Air Force Base (WPAFB). WPAFB advised Arrow Gear that eleven of the drawings requested were not available, and 38 were proprietary. I reviewed the same list and found four of the "unavailable" drawings were at Tinker, and two of those four were with unlimited rights (releaseable to Arrow Gear). I further found nine of the 38 "proprietary" drawings were *not* proprietary. Under existing regulation. Tinker will *not* release the drawing to Arrow Gear, even though it is my understanding that Air Force Logistic Command plans to authorize the Air Logistic Centers to disburse drawings, and has targeted 1988 for implementation, pending acquisition of some kind of computer control.

Proprietary data.—Problems arise from the government accepting data alleged to be proprietary then honoring the allegation, when, in reality (in my own personal opinion) only about 10% of the data are *really* proprietary.

Mr. Chairman, another thought that comes to my mind is that all too often the buyers wind up soliciting only the primes because they do not know who else to solicit.

The solution to this problem lies in the PNAPPL and the series of micro-fiche which identifies Part Number, Name of the Part, Manufacturer, National Stock Number, etc. (SBA/TAFB, JO 41, SCZ series of micro fiche.) Both of which, were developed at Oklahoma City Air Logistics Center by Small Business Administration but are not available to buyers at the other Air Logistics Centers.

I recommend the competition advocate offices and Small Business Administration offices orchestrate a training program at all five Air Logistics Centers to educate buyers to effective utilization of these data systems.

The last problem/restraint I would address is man-power to remedy the problem cited above.

Mr. Chairman, as I indicated earlier I have with me today some examples of the results of the effect of SBA's Breakout PCR progarm if you care to see them.

[From Inc. Magazine, February 1982, pp. 12-13]

How to Save a Few Billion Dollars

DEFENSE BUREAUCRATS COULD SAVE THAT MUCH BY CONTRACTING WITH SMALLER COMPANIES

(By Paul J. Seidman)

Government procurement officials have several good reasons for wanting to deal only with big companies. Unfortunately, what's good for the officials is often bad for the taxpayers, and official repudiation of efficient small companies costs the government billions of dollars a year. It's time for small businesspeople and their organizations it unite and demand that bureaucrats let them sell the products they're best at producing.

Say the Air Force needs spare parts, and the procurement official has a choice between a small company that nobody's ever heard of and a big one that advertises in all the glossy magazines. If he gives the contract to the big guy, nobody will blame him if the parts turn out bad. After all, look at the company's reputation. But if he gives it to the little one, think of the heat he'll get if the parts are defective: "Whaddya mean, buying from that bicycle shop?"

The procurement officials—especially uniformed military men who can retire at any age after 20 years' service—may also be planning on new jobs in private industry. What better way to improve your second-career prospects than by seeing to it that a major aero-space firm keeps its status as the sole source of some profitable replacement parts?

Of course, a contracting officer has to contend with bothersome laws and regulations—like competitive bidding rules. What if some tiny company he never heard of (and wouldn't think of working for) submits the low bid on a contract?

First of all, the low bidder has to be found "responsible," which means capable of performing the work in question. Who rules on responsibility? The contracting officer. So much for the small company.

Congress tried to protect small businesses from the tendency of contracting officers to underestimate the capability of small firms. It enacted a law that permits a small business found to be "nonresponsible" to call on the Small Business Administration for a second opinion. If the SBA says the low-bidding small firm can do the job, it gets the contract.

But innovative procurement officials at the Department of Defense have found a way around this law. If we can keep small businesses from bidding in the first place, the officials apparently reasoned, then they can't be low bidders and the SBA can't muscle in.

The procurement officials have assigned each of their aircraft spare parts a procurement method code, or PMC. One code incicates that a part requires unique manufacturing capabilities. Another covers those parts for which the government lack sufficient data to prepare specifications for prodcution by anyone but the original manufacturer. Yet another designates those manufactured with proprietary techniques. Using the assigned code for each replacement part, the Department of Defense makes a list of "qualified" bidders. And only those comapnies on the qualified bidders list can bid to make each replacement part.

Procurement officials asked the original manufactures of parts to recommend the code that should be applied to their products, then generally followed their recommendations. Thus, the "qualified bidders list" for many products consisted of exactly one name—that of the original manufacturer. This had the desired effect of making prime contractors the sole-source suppliers of replacement parts for their aircraft. And it kept the pesky SBA out of the way.

Of course, some upstart of a small business occasionally makes a fuss about this system. Honeycomb Co. of America, for example, a small family-owned business located in Sarasota, Fla., had an Air Force contract to supply some replacement parts for the F-4 Phantom jet fighter. The Air Force claimed some of Honeycomb's replacement parts weren't good enough and removed the firm from the list of qualified suppliers.

Unfair, said Honeycomb, and demanded a second opinion from the Small Business Administration.

You don't get one, replied the Air Force, because we never said you were "nonresponsible," we only removed you from the qualified list.

Honeycomb presisted, and took its protest to the General Accounting Office, a congressional watchdog agency that rules on the legality of procurement actions at the request of interested parties such as potential bidders or their trade associations. The Air Force got scared, fearing that its whole innovative system of discriminating against small business might be destroyed if the GAO ruled that Honeycomb had a right to a second opinion. Rather than risk total defeat, it surrendered to Honeycomb, and the GAO never rendered a decision on the merits of the case. Honeycomb got to bid on the F-4 parts, but other small companies in similar situations won't get to offer their products to the Air Force unless they're willing to run a similar gauntlet.

Moreover, the Department of Defense and its prime contractors are trying to undermine potential small business bidders in still another way. They are supporting changes to the Freedom of Information Act that would allow the Defense Department to withhold government-owned technical data needed to manufacture spare parts from potential small business competitors.

The effect of this kind of official cuddling up to big business is increased expenses for the military—and for the taxpayer. Many smaller businesses say they can save the Pentagon one-third to two-thirds of the prices the Air Force currently pays for parts. The savings that have resulted when the SBA has cajoled the military into opening bids to smaller companies have sometimes been even greater.

The SBA recently compared prices for 181 different aircraft spare parts bought through competitive bids after SBA intervention with the prices paid before competition was allowed. It found that the Air Force saved $6.7 million on these 181 parts over an 18-month period in 1980 and 1981. In one case, the cost reduction was 99.5% of the price the service paid in noncompetitive buys. "These are only example cases," the SBA said in a report prepared for Rep. John LaFalce (D-N.Y.), chairman of a House small business subcommittee. It noted that only 7.9% or approximately 300,000, of the nearly 3.9 million individual spare parts listed in the Department of Defense catalog system were subject to open competitive bidding.

The SBA report shows that there's a potential for billions of dollars in savings if smaller companies are allowed to participate more widely in the defense effort.

But individual small businesses like Honeycomb can rarely take on the Defense Department and the large aerospace contractors and force open bidding on products the small businesses could efficiently produce. Any small business's first concern is staying in business, not battling unreasonable government policies. And the Defenes Department and the large prime contractors can easily retaliate if they find a small business is being too successful in a struggle to force open bids.

Given the Reagan Administration's need to cut federal expenditures, one might think the White House would be interested in heightened competition and lower prices. But the Honeycomb case by itself isn't likely to get the Administration's attention.

The country needs a bunch of small companies willing to pool their resources and shout loud and long about the contribution they could make to cheaper and better defense. Without a strong small business coalition on the issue, the country will go on wasting money.

The **Chairman**. Yes; please go right ahead.

[Chart shown.]

Mr. **Miller**. This is an eyebolt. During testimony at a January 17, 1984 field hearing chaired by Senator Nickles, Col. Richard D. Smith said that rather than call these examples of formerly poor procurement horror cases, I think they ought to be called hero cases, because the problems were identified and solved. I thoroughly agree with him.

Senator **Boschwitz**. Called what?

Mr. **Miller**. Hero cases rather than horror cases, because if it wasn't for somebody that got in and broke out this spare part, we would still be paying $328 for these eyebolts.

Senator **Boschwitz**. $328 for that?

Mr. **Miller**. $328 for that eyebolt.

Senator **Boschwitz**. Pass it around.

Mr. **Miller**. That was the actual bid received from the prime manufacturer. It was not set aside for small business; hence the prime bid. Yet the low bid was $13 instead of $328.

The **Chairman**. The total amount of the prime bid was $14,433.

Mr. **Miller**. And instead of $14,000, we paid $600.

The **Chairman**. You paid $600.

Mr. **Miller**. We saved almost $14,000 on that one procurement action.

Senator **Boschwitz**. Why did they pay $14,000 in the first place?

Mr. **Miller**. First off, sir, there was a very small quantity bought, only 44 of them, and they are literally handmade. They are just time consuming to make in small quantities. If this thing came from a hardware supplier where they were making thousands of them, it would probably drop to around 50 cents apiece.

Senator **Boschwitz**. That is not a standard item?

Mr. **Miller**. No; it is not a standard item.

Mr. **Sanders**. Mr. Chairman, you understand that that would not have happened without an SBA intervention in the breakout that Frank was pointing out.

[Chart shown.]

Mr. **Miller**. This part, I understand, wound up on the top of Senator Roth's Christmas tree. It is a little piece of aluminum.

Senator **Boschwitz**. What is it?

Mr. **Miller**. A piece of aluminum with a square hole in it and bent at the end. It is called a bulkhead. Why, I don't know.

Senator **Boschwitz**. A what?

Mr. **Miller**. A bulkhead is the name of the part, a forward bulkhead.

Senator **Boschwitz**. A bulkhead.

Mr. **Miller**. Now, the prime did not bid on this one. It was set aside for small business only. On the previous buy, the prime did charge the Air Force $174 apiece for these things.

Senator **Boschwitz**. Let me see it.

Mr. **Miller**. Be careful; it's a very expensive part. [Laughter.]

By competing and buying 166 of them, we got the price down to $7.47 apiece, of which I suspect probably $7 apiece went into tooling. Thus, this one buy saved the Air Force $27,000.

Senator **Boschwitz**. That is how many they wanted?

Mr. **Miller**. I might mention, none of which the Air Force shared back with the Small Business Administration. We did the work and they got all the money. [Laughter.]

We joke about my job at Tinker. Mr. Sanders pays my salary and Tinker gets all the benefit. But it's fun.

[Chart shown.]

This is another terrifically expensive part. This part can actually be made out of just any old kind of aluminum you find lying on the floor. That was only worth $60 apiece. Again, it was not set aside for small business, and the prime actually bid $60.60 apiece for those things.

By competing, we got them for $3.96 apiece, saving another $14,000.

[Chart shown.]

This is another very expensive little piece of sheet metal, but it is bent twice. [Laughter.]

On the previous buy, not this instant buy, but on the previous buy, the prime did charge the Air Force $16 apiece for these. By competing, we got them for $3.80, thus only saving $2,000, but that does amount to about a 90-percent cost reduction.

[Chart shown.]

I am going to save the best one for last.

This thing is very difficult to make. They simply stamp out a flat piece, drill three holes in it, and then bend it. It was not set aside for small business. The prime did bid $153 apiece for those. If some mechanic tried to put a part on my car and charge that, I think I would explode.

We bought them for $5.87 and saved $27,000 on this one buy.

Senator BOSCHWITZ. Why do they buy such small quantities?

Mr. MILLER. They aren't used that much, sir. This part goes on the KC-135 aircraft. That thing rarely ever wears out; hence, the usage on it is very, very low.

[Chart shown.]

I said I would save the best part for last because I love to talk about this part.

The CHAIRMAN. I can tell this guy enjoys his job. [Laughter.]

Boy, so would I.

Mr. SANDERS. How many times have you been thrown off military bases in your career, Frank? [Laughter.]

Mr. MILLER. Can I take the fifth amendment? [Laughter.]

Mr. SANDERS. It is part of the hazards of the job.

Senator BOSCHWITZ. What is it?

Mr. MILLER. That is called a fitting assembly. To put the pricing somewhat into context for the audience, the prime manufacturer charged the Air Force $1,550 for this part.

The reason I like to talk about it is, Christmas before last, my wife surprised me by rolling in a little Honda 50 motorcycle for me. She paid $500 for it. Boy, is that thing fun to ride—80 miles a gallon, 23 miles an hour top speed—you know, old men don't want to go too fast—but considering that part in your hand, sir, for what the Air Force paid for that, I could buy a brand new Honda and have enough money left over for gas and oil to ride that little rascal around the world 3½ times. I think the Japanese know something about manufacturing we haven't discovered yet.

The CHAIRMAN. That was $1,500?

Mr. MILLER. $1,550.

The CHAIRMAN. What was the upshot of all this?

Mr. MILLER. By competing them, we got them for $52 on a buy of 24 each and saved almost $36,000.

Senator BOSCHWITZ. What kind of piece is that?

Mr. MILLER. It is aluminum.

Senator BOSCHWITZ. I understand, but what does it do?

Mr. MILLER. I really don't know. It goes on the AWAC's.

Senator BOSCHWITZ. Is that right? Where do you see that?

Mr. MILLER. I read that right in here, sir. AW is AWAC's. 1560 tells me it is part of the basic aircraft.

Senator BOSCHWITZ. Yes? They are down at Tinker.

Mr. MILLER. To summarize, of these six buys, we bought 837 parts. Without the breakout activity of the SBA, the Air Force would most likely have paid $127,000. Because of the breakout activity, we only paid $6,000 for the entire lot, saving almost an eighth of a million dollars.

Senator, these are not isolated cases. They happen daily at Tinker. In the breakout PCR program, the four of us, as I recall, saved the Air Force something like $37 million in fiscal year 1983, and as I mentioned, the Air Force gets all of that. We are just happy to help.

Are there any questions, sir?

The CHAIRMAN. Thank you very much.

Let me just ask a couple of questions and then turn it over to Senator Dixon.

During the committee's review of the extensive record generated by DOD's spare parts problem, the prequalification requirements, qualified product lists, engineering source approvals and the like were all identified as substantial obstacles to competition.

Would you briefly describe for us your experiences with such prequalification requirements and how they serve as obstacles to small business concerns trying to break into the DOD spares market?

Mr. MILLER. Yes, sir. The prequalification system is a good system. I think it is a very useful, functional system. The trouble is, it is abused. All too often engineers, when they are assigning the procurement method codes that cause the so-called qualified products list, will frequently miscode the parts.

For example, an electrical engineer might look at a hydraulic fitting assembly and notice on the drawing that it has to be tested at maybe 10,000 PSI on a hydraulic bench, and think, gee, that has got to be some kind of special test equipment; whereas, a mechanical engineer, were he coding the same part, would say, everybody has got a hydraulic bench if you are in that sort of business.

Hence, one would code it "N," meaning special test equipment is required; the other would code it "G" for "open competition."

On the other hand, if a mechanical engineer were coding a circuit card that has to be tested on an oscilloscope, he would think, gee, oscilloscopes, I don't know anything about that—it must be some kind of special test equipment—and he would hang an "N" on it, whereas an electrical engineer would say, everybody has got an oscilloscope that is in this line of business, and code the part "G."

Hence, the miscoding causes the creation of the qualified products list, and that is one of the basic things that we do to break parts out for competition. We go back and argue with engineers that assigned the code and tactfully, sometimes forcibly, induce him to admit that he made a mistake, that a part was coded wrong, and get him to change the code.

That is why I strongly advocate that breakout PCR's must be engineers. It takes one to argue with one.

The CHAIRMAN. Mr. Miller, S. 2489 would permit agencies to use prequalification requirements when needed but would require a justification, an announcement of the standards to be met, and would give contractors a chance to show that they can obtain those prequalification standards. Is this a workable system, based on your experience?

Mr. MILLER. Yes, sir, it is very workable, because frequently when an engineer starts trying to write down why something has to be a qualified product, he cannot come up with an answer. The alternative, then, is to throw the thing open for competition.

That, however, as you read it to me, could create a horrendous work load. Rarely are these justifications ever written down, other than just to cite a letter as a procurement method code and let that stand by itself.

I would be somewhat concerned that some managers might take the position that the assigned procurement method suffix code, in itself, constitutes a reason why the part is sole source.

The CHAIRMAN. What I would like to do is keep moving rapidly between the various Senators here. Senator Dixon?

Senator DIXON. Mr. Miller, would you tell us what you mean by the use of the term "breakout" as you have used it here in your testimony?

Mr. MILLER. "Breakout" is a term applied to that activity or actions which cause a part to cease to procure on a "sole source" basis, hence, it is in the group of parts that is sacred to primes. It is "broken out" of that group so that it can be competed. Hence, the term "breakout."

Senator DIXON. Is it appropriate for SBA to review determinations of a procuring agency regarding the adequacy of specifications that it has for procurements, in your opinion?

Mr. MILLER. In my opinion, I think so, sir.

Senator DIXON. By the time the procurement process is under way at the contracting stage, in my judgment, it is often too late. Shouldn't it follow that the time for determining what type of technical data package to buy, if any, must be made at the very beginning stages of the procurement process?

Mr. MILLER. Yes, sir, very early. Actually, after the purchase request is initiated, it is almost too late to do anything about it, unless you want to start then to get ready for the next time.

Now, that doesn't always hold true. Several months ago, there was an urgent requirement at Tinker Air Force Base for some parts, and rather than go "sole source," I got in and found out who the prime's vendor was, contacted him in an attempt to get him qualified in time for that instant buy. I had asked him to submit purchase orders to prove that he actually was the prime's vendor, copies of the drawings to verify that he did indeed have current technical data, a rights statement that he got the data legitimately, and an estimate of his production lead time.

He submitted all that information as part of his request for qualification, and offered to ship the parts, as I recall, 4 weeks after receipt of an order, whereas the prime manufacturer was currently quoting 600 days' lead time.

The inventory manager, then, discovering that he could get parts in 4 weeks rather than almost 2 years, was no longer in an urgent buy position. In fact, he cancelled his purchase request entirely and decided to wait a year and a half to buy them. It can be done.

Senator **Dixon**. I would like to ask both you and Mr. Sanders what additional staff or other resources you believe would be necessary to fully capitalize on the opportunities for an expanded "breakout" program and whether additional breakout procurement center representatives would be helpful.

Mr. **Miller**. Personal opinion; I cannot speak for Mr. Sanders. I have seen this thing work at Tinker Air Force Base. I have seen it work at San Antonio, at Warner-Robins, and at Ogden, and as I mentioned, the four of us saved the Air Force a little over $37 million in 1 year. That is just working at four of the major procurement centers. I can think of no reason why it wouldn't work at all of the major procurement centers.

Senator **Dixon**. Do you agree with that, Mr. Sanders?

Mr. **Sanders**. Senator, we feel that we have just barely scratched the surface on "breakout" potential, on the savings for the taxpayers and strengthening the defense base.

We are currently working on a paper which we would like to share with you which gives what we think is a reasonable estimate of the amount and the buildup of the amount of parts we realistically might achieve in "breakout" over a period of time. We would be glad to furnish that for you.[1]

Senator **Dixon**. Mr. Sanders, I would like to ask you this simple question. What administrative steps do you believe are possible to make it easier for businesses to have access to procurement opportunities?

Mr. **Sanders**. Well, I believe that there has to be a refinement, an understanding, of some of these technical problems. Mr. Miller has alluded to some of them—the qualified bidders' list, the qualified products list. These kinds of things are problems and impediments, and I believe, in some activities, we at the SBA could participate in a management role, for instance, in probably putting together a qualified bidders' list, rather than have the agencies have to be the sole source of that list.

As you know, I was talking to some of the people at Defense the other day about their problems in dealing with our size standard changes. I was told that they could not possibly get all the size standards out in time, in the 30 days we had given them.

So, anyway, the point of that is, they have 50,000 people involved in procurement at Defense. We have something like 200 at the SBA, not that we should equal them in numbers, but their procedures we, of course, cannot control entirely, but I think we can take some of those things and break out in such specific areas as that and manage them better, manage some of these things like qualified lists better.

If you would like to expand a little bit more, I am sure Mr. Hathaway, who has been dealing with this as a full-time career, could comment.

Senator **Dixon**. Well, I want to yield to Senator Boschwitz right now, Mr. Sanders. I will get back to you again.

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[1] Information not available at time of going to press.

Senator Boschwitz. I have to leave. I thank the Senator.

How many of these procurement centers are there, Mr. Sanders or Mr. Miller, in the Air Force?

Mr. Sanders. Five in the Air Force, and of course we have various defense——

Senator Boschwitz. You are covering four of the five already?

Mr. Sanders. Four of the five are included in this particular pilot project. What about the fifth one, Frank?

Mr. Miller. We do not have a breakout PCR at Sacramento yet, but I understand that he is soon to be hired.

Senator Boschwitz. What about the Army? How many does it have?

Mr. Sanders. What was the question?

Senator Boschwitz. The Army, do they have procurement centers, also, the Navy?

Mr. Sanders. Yes. Well, in the ten new procurement center representatives that we acquire, one will go to Sacramento, right. Don, would you take that?

Senator Boschwitz. Just about. I don't need to have a listing of the—I apologize, but Senator Dole is waiting for me, and I have to go up. But how do you—all these parts, how do you know what to look for? I mean, do you just take them as they come, as replacements of sorts? You see whatever orders are coming by and then you review them as they go by? You have no way of reviewing—the number of parts, I presume, is so large that you just cannot review the inventory.

Mr. Miller. Well, sir, I have been in this business since 1960. I spent 19 years working for the Air Force as a procurement engineer. You learn to smell for the things as they go by. How that is done, I couldn't begin to explain.

Senator Boschwitz. But you don't go through their inventory and decide that these parts are too expensive and put a price on each one as you go through their inventory and then seek out suppliers? You only really get involved with it as the orders come in for it?

Mr. Miller. As they come through, sir. If the buyer does not set a purchase request aside for small business, then the Small and Disadvantaged Business Utilization Specialist at Tinker looks at it. He may set it aside for small business. If he does not, then I look at the purchase request, and as I mentioned, you get a feel for these things from the noun, from the national stock number, and a lot of experience. You say, Hey, maybe this can be broken out, and then you scramble and try to get it done for that buy.

Senator Boschwitz. You don't really have a sense of what the part looks like when you see the purchase order?

Mr. Miller. No, sir. A very short noun.

Senator Boschwitz. A very short what?

Mr. Miller. A very short noun. The example I use is, what is a washer? Is it a little disk of metal with a hole in it, or is it something your wife throws dirty clothes in? But a purchase request comes through just to buy a washer, and that's all the buyer knows about it.

Senator Boschwitz. Well, I must leave you, but I spur you on. Are you adequately staffed with the four people?

Mr. MILLER. Rather. I could use some more help, yes, sir, but we are doing a pretty good job as it is. I think rather than put more people into my facility, it would be better to put them in other facilities.

Senator BOSCHWITZ. Would it be purposeful to go at it differently and require that with a purchase order a piece be affixed so that you could get a better look at it? Would it be purposeful to get a look at the inventory and try to get ahead of the problem in that sense rather than just getting it as it passes by?

Mr. MILLER. I think perhaps if a picture was attached to each purchase request so a buyer would know what he was buying.

Senator BOSCHWITZ. A picture, yes.

Mr. MILLER. He would know whether it was a washer or a clothes washer.

Senator BOSCHWITZ. Yes. You would get a sense of what the cost is, too.

Well, I thank you. I thank you, Mr. Chairman, for holding this hearing, and Senator Dixon for yielding. I must depart, and I apologize for my hasty withdrawal.

Senator DIXON. Mr. Chairman, if I may pursue a moment further with Mr. Miller? On page 7 of the chairman's and my bill, you will note that it provides at the lower part of the page, with reference to these items, beginning with line 20, "By inserting before the semicolon at the end of subparagraph (3)(A) a comma and 'and includes, as appropriate, agency nomenclature, National Stock Number or other part number, and system application,'" and then I call your attention to line 24, " 'all amplified by a brief description relating to the item's form, fit or function, physical dimensions, predominant material of manufacture, or similar information to assist a prospective contractor to make an informed business judgment as to whether a solicitation should be requested' ".

Now, that kind of information, I presume, would be helpful.

Mr. MILLER. It would be very helpful, sir, but what is sufficient is a matter of opinion. The person writing the description certainly is going to feel that just the word "washer" will tell everybody what it is, because he doesn't want to spend a lot of time doing a bunch of writing, whereas a buyer would like to have a description adequate to really describe the part to his mind. Yes, an expanded noun would be very helpful.

It has been suggested that a way to solve this is a closed circuit television system between the buyer's desk and a warehouse so the buyer could call the warehouse and ask that a part be held in front of a camera so he could actually see it.

The CHAIRMAN. Let me just ask one question, and then I am going to ask Senator Dixon to continue the questioning while I go step outside for a minute.

In addition to your official duties, you are a citizen of this country. You read newspapers, and you see that what is being requested in the defense budget, about $260 billion or thereabouts. Do you ever have sort of a factor in your mind when you see that figure that you apply as being the total of all this excess in terms of spare parts? Is there a 1-percent factor, a 2-percent factor? Can you be that generalized in the sense of ascertaining the dollars that are actually lost as against the entire defense request?

Mr. **Miller**. I have no feel for that at all, sir. I cannot even comprehend what $1 billion means.

The **Chairman**. What $1 billion is, $2 billion?

Mr. **Miller**. It is incomprehensible to me.

The **Chairman**. I will tell you one thing: Just from the examples you gave us here, it doesn't take long to reach a billion at that level. It truly does not.

Mr. **Miller**. About 2 weeks. You can get to $1 million.

The **Chairman**. Senator Dixon, why don't you proceed? I will be back in just a minute.

Senator **Dixon**. Do you want to go on to the other witnesses?

The **Chairman**. I have further questions which I want for the record. I have further questions, Jim, for response in the record. But let me ask you this. You also have brought with you another witness. Would you like him to testify as to certain matters?

Mr. **Sanders**. Mr. Hathaway, do you mean?

The **Chairman**. Yes.

Mr. **Sanders**. Well, Don, would you like to make any comments on some of the questions from your particular perspective in your career and being at Defense and getting at some better ways to do this?

The **Chairman**. I think it might be helpful. I will be back in just a minute.

Mr. **Hathaway**. Well, in terms of getting at better ways to do this, actually, the pilot program, which we initiated with Mr. Miller and with three other professionals which we hired during fiscal year 1980, truly it was intended to be a pilot program. It worked out that way, and it has been a learning experience for the past few years.

We started collecting those kinds of data which Mr. Miller demonstrated this morning, really, only within the past 2 fiscal years. When GAO did its audit of the SBA pilot in its report, it indicated that our figures were very conservative in terms of savings.

We know, based on DOD report data, that of the approximately 4 million spare parts, only between 7 and 8 percent of that number are coded for competition, so we know that, and Mr. Miller has demonstrated this morning to some extent the tremendous field of opportunity out there within the Department of Defense alone related to finding competition and reaping the benefits of that competition in spare and repair parts acquisitions.

As Mr. Sanders indicated in his testimony, we are in the process of recruiting 10 additional breakout PCR's. The position descriptions for these professionals will come very close to matching the types of capabilities that we have learned that we must have in the past years through the pilot program and operating with people like Mr. Miller at the three air logistics centers.

Our plans currently——

Senator **Dixon**. What do you pay one of those men, just as a matter of curiosity?

Mr. **Hathaway**. Their grade levels are grade level 13's. I think that puts you in the range of $40,000 annually, sir.

Senator **Dixon**. What kind of background does a person like that have?

Mr. HATHAWAY. The optimum type of background which we are able to find when we hired Mr. Miller was an engineering background, a working experience related to the Air Force in spare and repair parts, and a kind of familiarization with the procurement, the Federal acquisition system itself. So in Mr. Miller we found all the ingredients which allowed him to become effective very quickly.

Some of our recruitment actions are well along related to the additional 10 breakout PCR's. We are advised by our Philadelphia office, for example, where two of those new breakout PCR's are to be located, that they received 30 applicants for one of the jobs thus far. So we are bouyed by the response to those announcements for job opportunities, and we are hoping that we will be able to match the type of capability given to us through the hiring of Mr. Miller.

Our target for hiring all of the 10 additional breakout PCR's is July 1. If we are on schedule, we will conduct a rather comprehensive training program for those 10 additional breakout PCR's on July 16.

The installations we have selected are not all Air Force. There is Army, Navy, and two Defense Logistics Agencies located in Columbia, OH, and Philadelphia. It represents to us a little bit different look at the sparing process, perhaps a little bit more difficult but one which we think is appropriate to look into and we think will have the similar favorable results.

Senator DIXON. Mr. Chairman, incidentally, I would like to put my statement in the record and a statement from my colleague, the distinguished junior Senator from Tennessee, Senator Sasser.

The CHAIRMAN. Those statements will be included in the record at this point.

[Material follows:]

STATEMENT OF HON. ALAN J. DIXON, A U.S. SENATOR FROM THE STATE OF ILLINOIS

Mr. Chairman, let me first thank my good friend for the kind remarks he made when he intoduced the "second generation" of S. 1730, this bill now known as Senate bill 2489, the small Business Competition Enhancement Act of 1984.

Mr. Chairman, when I introduced S. 1730 and thirty-two of my colleagues joined me as cosponsors, I indicated that the bill has two main goals:

First, to increase small business participation in the Federal procurement process, thereby reducing costly noncompetitive procurements; and second, to broaden our Nation's industrial base for civilian and defense procurements.

Over the years, I'm afraid, many Government procurement officials have come to view small business legislation and regulations as an unnecessary and intrusive burden, and for that reason have often failed to implement them fully.

The need for the procurement legislation we have introduced has never been greater than it is today. We must put an end to the routine use of noncompetitive procurements by Federal agencies, especially the defense Department. Many small businesses are ready, willing and able to produce spare parts for major Department of Defense [DOD] systems at a fraction of the prices presently paid, but are prevented from doing so by DOD's noncompetitive procurement practices.

Aside from the billions that would be saved annually by eliminating DOD's sole source procurement practices, the development of alternative sources of supply would significantly strengthen this Nation's ability to respond in time of crisis.

The inadequate number of second and third tier defense contractors has led to dangerously long production times for defense items and increasing dependence upon foreign producers for spare parts and components. These problems with the defense industrial base arise at a time when production capacity has never been more critical to national security. A nation's defense system is only as strong as the industrial base on which it must depend for everything from shoelaces to missiles.

We all know that small business has the desire and the capability to provide quality products and services to the Government Expeditiously and at competitive prices. There are, however, a number of Federal Procurements laws, procedures, and agency practices that make it difficult, if not impossible, for many small businesses to fairly and fully complete for government contracts.

During the past several months, within the Senate Small Business Committee, Senator Weicker has provided significant guidance and leadership by focusing our review on these obstacles which impede competition by small businesses. Our committee has already held four field hearings.

Building on these hearings, Senator Weicker and I have developed what we consider to be an improved, "second generation" version of S. 1730.

The new bill, which we introduced along with 22 of our colleagues, addresses the same problems we sought to solve with S. 1730, but it does so in a more comprehensive way. This approach will not alter the procurement system in wholesale fashion, but it will enhance competition.

The Small Business Competition Enhancement Act of 1984 will help correct many longstanding problems, not only in procurement practices, but also in even larger areas. By increasing the use of competitive procurement practices, the bill will effectively decrease escalating federal costs. The increase in the number of small businesses participating in the procurement process will also expand our country's industrial base. The active participation of small businesses across the Nation in the total Federal procurement process, but particularly defense, will enable the distribution of Federal procurement dollars to be more equitable and efficient.

Mr. Chairman, as I'm sure you know, I have joined my good friend, Senator Levin, on the ad hoc task force on selected defense procurement matters. This task force will be reviewing this legislation after the Small Business Committee completes its work. Rest assured Senator Levin and I will make every effort to move this bill through the task force and the Armed Services Committee so that the Senate can consider it, pass it, and thereby provide our country with effective competition by bringing an end to the Government's past reliance on sole-source contracts.

STATEMENT OF HON. JAMES R. SASSER, A U.S. SENATOR FROM THE STATE OF TENNESSEE

Mr. Chairman, I have often spoken out against waste in government programs and contracting practices. I firmly believe that increased competition by small business on government contracts is one way to combat such abuses. Debate on these issues over the past few months has focused on the scandals discovered in the spare parts contracts of some of our agencies.

The astronomical prices being paid for spare parts are actually indicative of a larger problem. Such government waste, illustrates the failure of our procurement system to open government contracts to competition by small business. Closer examination unmasks a procurement system of countless obstacles for those small firms wanting to contract with the federal government.

I took an early interest in exploring these myriad obstacles, Mr. Chairman. You will recall that I chaired field hearings of this committee in Nashville, Tennessee last fall on this very topic. Those hearings were instrumental in bringing to light a host of hurdles small firms must clear to bid on procurement contracts. Witnesses at the Nashville hearings repeatedly cited such problems as a lack of adequate information on procurement bids, little effort by government officials to bring in small business contractors and the lack of accountability of those responsible for administering procurement programs.

Many of these obstacles were addressed in S. 1730, introduced by Senator Dixon and cosponsored by myself and over 30 other Senators. I would like to commend Senator Dixon for his efforts in focusing on the central issues in this debate and galvanizing the small business community into action. I look forward to his continued input as we move forward with this second generation procurement legislation.

Mr. Chairman, S. 2489, which I was pleased to join as an original cosponsor, also addresses the concerns raised during the Nashville hearings and spoken to in S. 1730. The bill provides incentives to insure that adequate consideration is given to competitive procurement of future needs such as spare parts during the planning and awarding of government contracts. This is a critical provision. We must focus on competition during the planning stages of procurement needs and S. 2489 does so.

The Small Business Competition Enhancement Act also provides better access to timely information on contracting opportunities to all small firms. This will allow small businesses to make informed decisions regarding government contracts. As I indicated earlier, this was a major issue of concern raised during the Nashville hearings and I am pleased to see the committee responding to these needs.

Finally, in terms of accountability, the language in S. 2489 dealing with Breakout Procurement Center Representatives will prove helpful. Our bill expands on the existing program in this area to provide Breakout PCR's in each major procurement center. This provision not only addresses the accountability theme, but responds to findings on how best to increase small business participation in government procurements. A study done on the factors affecting small business participation in government procurements found that breakout efforts constitute, potentially the single most important mechanism for increasing procurement dollars to small business.

In conclusion, Mr. Chairman, I again thank you for allowing me to take an active role in this area through the Nashville field hearings last fall. I look forward to working with you on this issue in the weeks ahead as we move forward with S. 2489.

The CHAIRMAN. Also, any questions of Senators on the committee can be submitted for response to the record.

[Subsequent information was received and follows:]

LOWELL WEICKER, JR., CONN., CHAIRMAN
BOB PACKWOOD, OREG.
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ALAN L. CHVOTKIN, MINORITY CHIEF COUNSEL

United States Senate
COMMITTEE ON SMALL BUSINESS
WASHINGTON, D.C. 20510

April 17, 1984

Honorable James C. Sanders
Administrator
Small Business Administration
1441 L Street, N.W.
Washington, D.C. 20416

Dear Mr. Sanders:

I would like to extend to you my thanks for testifying at the Senate Small Business Committee's April 6, 1984 hearing on S. 2489, the "Small Business Competition Enhancement Act of 1984", and S. 2434, a bill to amend section 15 of the Small Business Act by requiring the assignment of breakout procurement center representatives at major procurement centers. Your written statement and your oral testimony will be very helpful to the Committee during our further consideration of these two bills.

Due to the time constraints of the hearing, several important points raised by your written statement and oral testimony were not fully explored. In order to make the hearing record complete, the Committee would greatly appreciate it if you would provide written responses to the attached questions, which will be included in the printed hearing record.

Presently, I intend to include these bills on the agenda for a Committee mark-up session scheduled for May 8th. Therefore, it is essential that your written responses be received by the Committee no later than April 27, 1984.

Your responses should be directed to the Committee on Small Business, United States Senate, Room 428A Russell Senate Office Building, Washington, D.C. 20510, to the attention of William B. Montalto, the Committee's Procurement Policy Counsel. Should you have any questions concerning this request, and any requests made during the course of the hearing, please telephone Bill at 224-5175, or Alan L. Chvotkin, Minority Chief Counsel, at 224-8497.

Again, thank you for your participation at this important Committee hearing, and for promptly furnishing the responses to our questions for the record.

With every good wish, I am

Sincerely,

LOWELL WEICKER, Jr.
Chairman

Enclosures (Omitted.)

U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

MAY 16 1984

Honorable Lowell Weicker, Jr.
Chairman
Committee on Small Business
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your letter of April 17, 1984 in which you forwarded additional questions on S. 2489, the "Small Business Competition Enhancement Act of 1984," and S. 2434, a bill to amend Section 15 of the Small Business Act by requiring the assignment of Breakout Procurement Representatives at major procurement centers.

Enclosed are our responses to the questions. I appreciate the opportunity to provide you with this additional information with the hope that it will be helpful to the Committee in its consideration of S. 2489.

Yours truly,

for James C. Sanders
Administrator

Enclosures

Document #2336

QUESTIONS FOR MR. SANDERS (FROM SENATOR DIXON)

Q. Does the Government have a need for complete and accurate technical data if that can be made available, so that it will be able to complete certain requirements?

A. The Government must indeed have legible, complete and accurate technical data for reprocurement purposes. Otherwise, potential bidders will be uncertain as to exactly what the government is buying.

Q. When the Government "pays" for the development of an item, in whole or in part, does the Government have rights to that item, and rights in the data necessary to develop and reproduce that item?

A. We believe that when the Government funds the development of an item, the Government should have total rights to that item and to the data necessary to develop and reproduce it.

Q. Does the Government have a legitimate right to require the delivery of technical data to back up a purchase when that item is NOT covered by claims of proprietary data?

A. The Government does have a legitimate right to require delivery of technical data when there are no contractor claims of proprietary rights. Of course, the delivery of this type of data is usually covered in the contract. However, when any funding considerations arise, the delivery of a complete data package, adequate for reprocurement purposes, is usually the first line item in the contract that is either eliminated or modified. The result is that the Government receives no data at all or receives data this is incomplete.

Q. Must the phrase "developed at private expense," have a single definition that is uniformly applied across all agencies, if possible?

A. We believe a single definition for this phrase is a must so that it can be applied uniformly across all agencies. Otherwise, we can anticipate various interpretations of the phrase and various procedures developed relating to its application.

Q. If a non-commercial item is not developed with Government funds, is it your view that any proprietary rights should rest solely with the private concern and be solely under the control of that private concern?

A. In the case of non-commercial items, we believe that if the contractor develops the item at his own expense, then the contractor may justly claim a proprietary right to that item. However, if the Government, at some later date, decides it needs the technical data associated with that item and is willing to "pay the price" for such data then we believe the contractor should consider selling it to the Government. Please remember, however, that most firms view proprietary items, processes, etc., to be a company asset which provides a definite advantage over any competitor, in either the federal or private marketplace. This view is shared by small businesses as well as large.

Q. Do you have an opinion about the recommendations of some that the proprietary data rights to a system sold to the Government become the property of the Government after a fixed period of time?

A. We believe that after some period of time that the Government should require a complete review of items determined to be proprietary when the system was initially produced. If those items can be legitimately determined to be proprietary, then the proprietary data rights should continue with the contractor.

Q. During the planning for a procurement, should the Government be able to know in advance the extent to which its purchase may be covered by a firm's claims of proprietary data that may inhibit competition on future reprocurements?

A. Absolutely. The Government should know "up front" what items the contractor plans to cover by a proprietary data claim and the reasons for such a claim. This will allow the Government an opportunity to challenge such claims early in the acquisition process and will provide them with an inventory of such items so that they may schedule reviews of these items in the future.

Q. Should a contractor be given the opportunity to propose to the Government that the contractor will sell or license its proprietary data if it so chooses, and to provide an estimate of that cost to the Government for that sale or license?

A. We do not oppose the issue that a contractor determine that it is in its best interests to sell or license its proprietary data. The contractor should provide the Government with an estimate of the cost of such data.

Q. If a system's functional performance will be the same as between a system where the Government could have the technical data necessary for reprocurement, and a system where it has no access to that data, shouldn't the Government have the opportunity to purchase the system where the data is offered?

A. We believe that every effort must be made to allow the Government the opportunity to purchase a system where complete and accurate technical data are available and offered. This will allow future competition and, ultimately, result in lower costs to the Government.

Q. Mr. Adams says on page 8 of his statement that it is not possible to tell whether proprietary data is accurate just by looking at it. Please explain the system the Government uses to challenge claims of proprietary data.

A. Very rarely does the Government challenge a contractor's claim of proprietary rights. Unfortunately, the Government does not have the resources, especially in the form of qualified technical engineers, to successfully challenge such claims. Basically, the Government relies totally on the contractor's assertion that an item is proprietary.

Q. Once a claim of proprietary data has been asserted, or a restricted Procurement Method Code assigned, is it periodically reviewed?

A. Under DAR Supplement Number 6, restricted or sole source items are to be reviewed every three years. However, this review occurs only when a buy requirement is estimated to exceed $10,000 (although the threshold can vary according to Service, i.e., Air Force screens down to $7,500.) Proprietary claims are reviewed in accordance with the DAR Supplement Number 6 schedule, but rarely challenged due to technical resource limitations. Please note that there are over 428 thousand "L" coded items. Those are items that fall below the $10,000 threshold.

Q. On page 2 of your statement, you indicate that when the SBA representative "determines that small firms could satisfactorily produce the item," action is taken to break out that item. How does the SBA representative determine what particular small firms have that competency to perform? Have you ever guessed wrong on the decision to breakout components for competition?

A. The SBA representatives identify possible sources by various means (i.e., bidder lists, companies that have contacted SBA, agency lists indicating who has produced the part in the past, etc.) When a product must be prequalified, SBA representatives help the firm through the qualification process. SBA representatives, on occasion, have identified items for breakout that were not totally suitable for competition because of some engineering consideration not readily identifiable. Fortunately, this happens very infrequently.

Q. How many "Breakout PCRs" do you now have? Last year, within the Fiscal Year 1984 SBA Appropriations Act, Congress provided the additional funds for the ten breakout procurement center representatives. At what installations are they now located?

A. The SBA currently employs four Breakout PCRs. They are located at San Antonio, Warner Robins, Oklahoma City, and Ogden Air Logistics Centers. We are in the process of hiring 10 additional Breakout PCRs, and they will be in place by July 1, 1984. Attached is a list of the locations to which they will be assigned.

Q. Has the President requested Fiscal Year 1985 funding for all 14 breakout procurement center represenatives?

A. The SBA has received FY 1985 budget approval for the 14 Breakout PCRs.

Q. With the Fiscal Year 1984 appropriations already made, and the appointment of 14 breakout procurement center representatives already in place, is legislation necessary to statutorily provide for them and determine their functions?

A. The SBA does not believe legislation is necessary to provide for the Breakout PCRs or to determine their functions. We have already authorized the Breakout PCRs and have delineated their responsibilities.

Q. What additional staff, or other resources, do you believe would be necessary to fully "capitalize" on the opportunities from an expanded breakout program? Would additional "breakout procurement center representatives" be enough?

A. The Office of Management and Budget (OMB) has authorized 10 additional positions for use as breakout procurement center representatives (BO/PCRs) which should result in substantial savings over the coming years. As you know, SBA currently has four BO/PCRs located at major DOD spare parts acquisition centers; and these individuals have broken out over 2,000 items for competition and have saved the Government approximately $43 million over a three year period. The DOD has recently put renewed emphasis on competition and has established "Competition Advocate" offices at all their buying activities. These offices range in size from 30 people to over 100 people depending on the activity. These resources coupled with the SBA BO/PCRs should result in a significant improvement in the spare parts breakout program.

Q. Last year, Congress enacted some changes to the Commerce Business Daily designed to increase the usefulness of that document to the entire contracting community, with the intention of reducing sole source awards and increasing competition (Public Law 98-72).

Do you have any knowledge about the success or failure to date of that prior law? Do you have any knowledge about what the agencies' implementation of that law has been since it became effective on October 1, 1983?

A. Prior to enactment of P.L. 98-72 many agencies either ignored or did not fully implement the regulatory guidance concerning synopsis of bidding opportunities.

The SBA recently attended a National Contract Management Association (NCMA) workshop in Washington, D.C. on Public Law 98-72. There were over 150 contracting officers from various Federal agencies, both civilian and military, in the Washington area. The main complaint of the contracting community is that it now takes longer to process a procurement action because of the requirements in P.L. 98-72. The discussion centered around the need for adequate advanced procurement planning to overcome any delays in the procurement cycle. Basically, contracting officers are effectively implementing the requirements stipulated in the law with relatively few problems.

Several small businesses have indicated that P.L. 98-72 has indeed helped them in their efforts to participate in the Federal acquisition process. Of particular importance to these small firms is the requirement for a minimum time period between the time an action appears in the CBD and the time a solicitation is released. Additionally, small firms are finding that information about a given procurement action is more complete which helps that firm decide on whether they will pursue the requirement.

Q. Do you believe that the Commerce Business Daily can be an effective tool for the small business community as a means of increasing their knowledge of the nature and extent of Federal procurement actions?

A. The Commerce Business Daily (CBD) is the primary vehicle used by most small and small disadvantaged concerns to ascertain current procurement opportunities in the Federal marketplace. Today, the CBD processes an average 800 procurement actions each business day or about 200,000 procurement notices each year. There are over 40,000 subscribers to the CBD. The various procurement agencies are responsible for compliance with the governing regulations regarding synopsizing in the CBD. Unfortunately, there is a long history indicating that agencies have either ignored or only partially complied with these regulations. Synopses either appeared too late or contained inadequate information for small businesses to fully respond. Public Law 98-72 legislates corrective measures which must be followed by procuring activities. As you are aware, the law now requires that all agencies synopsize upcoming procurement actions of $10,000 and above. However, there are literally millions of actions which fall below this dollar threshold. For example, in Fiscal Year 1982, the Federal Government transacted 18.3 million actions under $10,000 totalling $12 billion in contract dollars. This represents approximately 97 percent of all Federal contract actions slightly more than seven percent of the dollars spent by the Federal Government. Many of these actions were not synopsized in the CBD because they did not meet the applicable dollar thresholds. The end result was that many small and small disadvantaged firms, many of whom depend on smaller orders for mere survival, were not made aware of these bidding opportunities. The SBA believes that all procuring activities should publically post all procurement actions above $500.00 so that these smaller firms could avail themselves of this vast potential marketplace. While such a requirement would place a minor administrative inconvenience on some procuring activities, the overall result would be increased competition and lower prices to the Government.

Q. Are there any further additions to the Commerce Business Daily notices that you would recommend to enhance competition and increase its usefulness to the entire contracting community?

A. We feel that the additional requirements contained in Section 4 of S. 2489 modifying Section 8(e) of the Small Business Act should prove very beneficial to small businesses in their efforts to participate in the federal acquisition process. In fact, several small businesses have indicated that P.L. 98-72 has indeed helped them in their efforts to participate in the Federal acquisition process. Of particular importance to these small firms is the requirement for a minimum time period between the time an action appears in the CBD and the time a solicitation is released. Additionally, small firms are finding that information about a given procurement action is more complete which helps that firm decide on whether they will pursue the requirement.

Q. Given past experience, do you believe that administrative action is likely to address some of the additional suggestions that you have made to improve the Commerce Business Daily?

A. Empirical evidence indicates that Administrative action alone will not suffice. Changes such as those suggested in S. 2409 must be legislated to assure that improvements to the CBD are made.

Q. Would you explain briefly how the Certificate of Competency program operates at the Small Business Administration?

A. The Certificate of Competency (COC) program is an appeal procedure available to small businesses whose bid or proposal is to be rejected by the contracting officer for reasons of responsibility or Walsh-Healey eligibility. The Small Business Act requires Government contracting officers to refer to the Small Business Administration (SBA) small firms whose bid or proposal has been determined to be non-responsible or ineligible because of the Walsh-Healey Public Contracts Act. SBA's regional offices conduct detailed reviews of the firm's responsibility and eligibility with the burden of proof being on the small business to demonstrate they have the ability to perform. If SBA issues a COC, the contracting officer is required by law to award the contract to the certified firm. After award of the contract, SBA follows performance for its life and provides the certified firm with procurement, technical and financial assistance, if required.

Q. Is there any dollar threshold in the law for determining when an otherwise low bidder may be entitled to request that SBA conduct a certificate of competency review?

A. There is no dollar threshold in the law for determining when a contracting officer is required to refer a small business low bidder for a COC review.

Q. Has the agency administratively applied any dollar threshold for that eligibility?

A. SBA initiates COC actions on all cases referred to it, regardless of dollar value. On an administrative basis, contracting officials are permitted to make referrals at their discretion in an estimated dollar range of $0 to $10,000. There is no dollar threshold for eligibility.

Q. Do you know how many contract actions, and what is the dollar volume, of contracts below $10,000?

A. In the Fiscal Year 1982, SBA received 304 referrals, 60 applications and issued 27 COC's on contracts with values of less than $10,000. The exact value of these contract actions is not known, however, the maximum value of the contracts awarded as a result of a COC being issued is less than $270,000.

Q. Are you familiar with the General Accounting Office's opinion holding that the statute, the legislative history of the program, and in fact, the Small Business Administration's 30 years of practice, provide eligibility for contracts below $10,000 if the small business concern were to request the Agency's competency review?

A. As we have responded to previous, related questions, SBA has not sought to limit COC eligibility to actions exceeding $10,000, and intends to initiate review action on all cases received by it.

Q. On what statutory basis, and for what administrative purpose, did SBA determine that a contracting officer did not have to refer an otherwise low small business bidder to the Agency so that small business could be given the small business share of procurement?

A. The COC procedures are set forth in Section 8(b) of the Small Business Act. This section starts with the following words: "It shall also be the duty of the Administration and it is hereby empowered whenever it determines such action is necessary..." It is upon this provision that SBA based the administrative action permitting limited contracting official discretion. The Administrative discretionary element is tied to a number of practical procurement-related factors. Some examples of this are: the application of the $25,000 small purchase procedures; the conduct of preaward surveys by the acquisition agencies on small value procurement actions, the Walsh-Healey threshold, resource availability, and concerns related to cost-effective utilization of COC personnel resources.

Q. According to last month's 1984 President's Report on the State of Small Business, between 1979 and 1982 total Federal procurement purchases over $10,000 have almost doubled, yet the percentage of small business share of Federal contract dollars has declined. Similarly, in each of the three largest Federal procuring agencies, the President's report acknowledges that the small business share of contract actions has declined over the same period for Fiscal Years 1979 to 1982.

Q. In your judgment, what is the current level of the small business supplier capability in our nation's industrial base?

A. The recent Air Force Management Analysis Group (AFMAG) study on spare parts acquisition within the Air Force revealed that the defense industrial supplier base has declined from a 1964 level of over 6,000 firms to an alarming 3,400 firms in 1980. The reasons for this decline are varied. For example, many firms do not want to deal with the Government paperwork associated with Federal acquisitions. Yet, those firms in the industrial base that do deal directly with the Government supply the highest quality goods and services. Overall, we believe our small business supplier capability is extremely good

Q. Do you have an opinion as to why the small business share has been declining during the past three years?

A. There are many reasons why the small business share of Federal procurement has been declining recently. Among these are the Federal paperwork burden; the number of dollars being spent on large defense weapon systems which are beyond small business capability. The number of opportunities for small businesses to bid have decreased; management attitudes toward consolidation of products and services; buyer attitudes towad small business; the number of sole source buys; and small businesses not being made aware of opportunities in a timely manner.

Q. Beyond the breakout of some components for increased small business procurement, what further actions, if any, can the Small Business Administration take to reverse this regrettable downward trend in small business participation in Federal prime contracts during the past three years?

A. Given the limited resources of the Agency, we can only work harder with our small business constituency to involve them in the Federal acquisition process. We must continue to rely on our "traditional" and "breakout" Procurement Center Representatives to identify acquisitions suitable for small business firms and, where appropriate, to establish small business set-asides. In addition, we must work harder with all agencies' top level management to raise the level of consciousness regarding small business participation in their acquisitions. Finally, we must insist that all agencies work towards establishing higher goals in accordance with P.L. 95-507; and be able to rely on Congresional oversight when these goals are not met.

Q. Are there other actions that the major procuring agencies can take administratively to reverse that downward trend?

A. Major procuring agencies must take every available step necessary to include small businesses in their acquisitions. These steps include breakout of additional items; reducing bid quantities in some instances; creating reasonable delivery schedules; making specifications more readable and available; reducing paperwork; training contracting officers to be more sensitive to small business issues and problems; provide faster payment, and involve top level management to assure that a strong small business program is in place and fostered.

Q. What administrative steps do you believe are possible to make it easier for businesses to have access to procurement opportunities?

A. Federal agencies should be required to post all actions below $10,000 so that small businesses can be made aware of these smaller bidding opportunities.

Q. Small business leaders have mentioned that some of the problems they face in selling to the Government include bidding, marketing, and the administration of contracts that they may win. What role can the Small Busines Administration play, if any, in assisting small business to overcome some of these impediments to breaking into the system, and performing satisfactorily?

A. The Small Business Administration has the responsibility of making certain that small business obtains a fair share of Federal contracts and subcontracts. The SBA, working closely with Federal agencies and the naton's leading contractors, carries out its procurement assistance responsibilities through a number of programs including prime contracting, subcontracting, the Procurement Automated Source System (PASS), and the Certificate of Competency program. Procurement assistance is available in each of our 10 regional offices and in the headquarters office. We counsel thousands of small firms every year on how to do business with the Government, how to resolve contract problems, etc. The SBA also provides small businesses, free of charge, various publications which contain useful information on the Federal contracting process. We also provide free seminars around the country for small businesses interested in doing business with the Government.

QUESTIONS FROM SENATOR WEICKER

Q. During the Committee's review of the extensive record generated by DOD's "spare parts problem," prequalification requirements -- qualified products lists, "engineering source approvals," and the like, -- were identified as substantial obstacles to competition.

Mr. Miller, could you briefly describe for us your experiences with such prequalification requirements and how they serve as obstacles to small business concerns trying to break into the DOD "spares" market?

A. Yes. The OCALF Competition Advocate's Office, as well as the Center's Engineering Division, do not consider the AMSCs, other than "G," as sole source codes, but rather as codes which call for pre-qualification.

They are most receptive to working with small business concerns who (a) have the required manufacturing facilities, equipment, GC program, and data, as well as (b) are willing to produce pre-qualification samples at their own expense for OCALC testing.

The problem is data. Certainly, once a buy notice is published in the CBD there is not time to (a) secure data from WPAFB (approx. 4 mos.); (b) build samples; and (c) secure OCALC qualifications (60 day minimum) prior to award. Generally, this scenario takes about a year. We are making some inroads with SBA's PNAPPL program, which I will address in my response to question number 4.

Q. S. 2489 would permit agencies to use prequalification requirements when needed, but would require a justification, announcement of the standards to be met, and would give contractors a chance to show that they can attain those pre-qualification standards.

A. It is my personal opinion that this system is highly workable at OCALC. The limitations and constraints that I foresee are the availability of competent manpower, and some sort of policing activity (such as SBA's BO/PCR) to preclude abuse of AMSC "H".

Q. S. 2489 approaches the issue of contractors' proprietary data rights very carefully. Legitimate proprietary data rights are recognized -- for many small company trade secrets may be their most important "edge" in the marketplace. Rather than limit rights, S. 2489 provides a system for validating the assertions of proprietary data rights made by contractors and a system of financial disincentives -- penalties -- which a contractor will face for asserting rights that cannot be supported.

a. Mr. Miller, will such a system help eliminate unsupportable proprietary data assertions as an obstacle to competition?

A. In my opinion the proposed addition of (P) to Section 6, Section 15 of P.L. 95-507, would indeed help eliminate unsupportable proprietary data assertions. I would recommend that language be added: (a) to permit continuation of a buy that was in progress prior to the challenge due to the long lead time anticipated for resolution, and (b) no subsequent buys be initiated prior to resolution, and finally (c) the instigator ((P))(1)) be a party to the contracting officer determination ((P)(4)).

b. Mr. Sanders, would you care to comment on how this approach strikes you?

A. I would agree with Mr. Miller's assessment. The language contained in Section 6 of S. 2489 provides for a sorely needed mechanism whereby cognizant officials can effectively challenge proprietary data restrictions.

Q. Mr. Miller, in your statement you mentioned the "PNAPPLE" (Part Number Advanced Procurement Planning List) program at Oklahoma Air Logistics Center. This program seems to be trying to give the small business competitor the "long view" of the market, as opposed to the "snapshot" provided by notices in the Commerce Business Daily (CBD).

Would you provide a brief description of the program?

A. The PNAPPL program was born at OCALC in July 1982 as a successor to the Vendor Identification Program (VIP). The intent of these two SBA programs was/is to locate prime vendors and afford them the opportunity to bid directly to the government. This same philosophy appears to be the intent of Section 5, Section 15 (O) (9 thru 12) pages 12 and 13 of the bill.

Under the VIP, SBA would obtain a list from a vendor of the parts he had made. From that list we would identify those parts which were active at OCALC, and identify the AMC/AMSC. If the AMSC was "G", we would file his name into the mechanized bidders mailing list (JO-14). If the AMSC was other than "G" we would invite him to seek qualification via the M-4 clause of AFLC standard solicitation.

The VIP was effective but had two major deficiencies: (1) its success created a workload which we could not staff, (2) it created astronomical administrative expense to the small businessman, with no assurance/indication of potential return on his investment (we estimate $15.00 administrative cost to a contractor to request qualification). One such contractor, quite small, was faced with over 1,000 such possible requests.

The PNAPPL resolved both of these deficiencies: (1) the PNAPPL shifted our workload back to the vendor, and (2) the PNAPPL forecasts the quantity and cost both for the apportionment and budget years, which this Center plans to buy, thus the contractor knows in advance the potential return on his administrative investment. Further, he does not waste time seeking qualification on parts which are not forecasted for procurement.

Please refer to January 31, 1984 addition to the PNAPPL cover letter which is attached.

Q. S. 2489 contains several sections intended to improve the "quality" of CBD notices, including procurement histories and procurement forecasts. These provisions are a natural follow-up to the Committee's efforts in the last session to improve the timeliness of CBD notices. That effort, S. 272, is now Public Law 98-72.

a. Mr. Miller, do you feel that our efforts in S. 2489 to improve the quality of CBD notices will increase small business participation? And, will the procuring agencies be able to comply?

A. I do feel that our efforts will increasee small business participation. Let me, however, state that it is incomprehensible to me that OCALC would ever conceive of standing in contempt of Congress and would, therefore, comply with S. 2489 as fast as their limited manpower allows, and as completely as available and assessable data permits. Perhaps wider implementation of SBA's PNAPPL program and advertisement of its existence/availability in the CBD would implement much of your thrust.

b. Given the flexibility included in these provisions, will the procuring agencies be able to comply, based on your experience?

We believe that although agencies may experience a modicum of administrative burden, that effective implementation and compliance will take place.

c. Mr. Sanders, what are your feelings about our proposals to improve the "quality" of CBD notices?

I am of the opinion that the language contained in Section 4 of S. 2489 will greatly enhance small business participation in the spare parts acquisition process. As you are aware, many small businesses rely almost totally on information contained in the CBD to identify potential bidding opportunities. Improving the quality of that information will no doubt help the small business entrepreneur in identifying valid opportunities in the Federal marketplace.

Q. Mr. Miller, in your statement you note that in your experiences the procuring agencies tend to solicit only the original equipment manufacturer, because they do not know who else to solicit. In S. 2489, we require that the procuring agencies incorporate contract provisions in the contracts for the production of major systems that will provide information on the actual manufacturer of a component and other sources that the system contractor may consider to be "qualified" sources.

Mr. Miller, what is your reaction to these provisions?

A. Excellent step forward, if and only if, the data required of the prime is (a) made available to the procuring activity, and (b) the procuring activity utilizes the acquired data.

Q. Both S. 2489 and S. 2434 provide a statutory basis for the breakout PCR program. The principal differences between the two bills relate to the authorities conferred upon the breakout PCR.

Mr. Miller, would you care to outline the authority you believe you need to do the kind of job that needs to be done?

A. S. 2489 and S. 2434 would be quite satisfactory given these changes:

(1) change S. 2434 - amend pg. 2, line 8 to read "refer to" in paragraph 1 "shall be empowered to," to conform with S. 2489, pg. 18, lines 20 and 21.

(2) change S. 2489 - amend pg. 20, line 2 to read "procurement centers shall assign 4 technical advisers to each," to conform with S. 2434, pg. 4, line 3.

(3) change S. 2489 - amend pg. 20, line 15 to read "(C) the sole duty...." to conform with S. 2434, pg. 4, line 13.

Q. In your statement, Mr. Sanders, you made mention of the different roles which the "traditional" PCRs and the "breakout" PCRs are expected to play.

a. Mr. Sanders, would you characterize the breakout PCR as SBA's "advocate for competition" at these procurement centers?

A. We believe that our BO/PCRs are important "advocates for competition" at the procurement center to which they are assigned. Empirical evidence indicates that the BO/PCRs have been extremely successful in initiating competitive acquisitions, thereby providing bidding opportunities for small businesses and resulting in substantial cost savings for the Government.

b. Mr. Miller, would you care to comment on this point?

With the cooperation of officials at OCALC, I have been able to introduce competition on thousands of items. The BO/PCR's primary objective is competition.

Attachment "A"

TEN (10) ADDITIONAL DOD ACQUISITION INSTALLATIONS FOR BREAKOUT PCR ASSIGNMENTS

	Estimated Total FY 1983 Expenditure for Spare Parts ($ in Millions)	SBA Region
ARMY		
Redstone ArsenalMissile Command Huntsville, Alabama	$377.2	IV
Communications & Electronics Command Ft. Monmouth, New Jersey	$497.3	II
Tank & Automotive Command Warren, Michigan	$500.0 1/	V
Armament Readiness Command Rock Island, Illinois	$741.3	V
Troop Support-Readiness Command St. Louis, Missouri	$1,398.0	VII
NAVY		
Ships Parts Control Center Mechanicsburg, Pennsylvania	$1,800.0	III
Aviation Supply Office Philadelphia, Pennsylvania	$1,900.0	III
AIR FORCE		
Sacramento Air Logistics Center Sacramento, California	$482.0	IX
DEFENSE LOGISTICS AGENCY		
Defense Industrial Supply Center Philadelphia, Pennsylvania	$580.0	III
Defense Construction Supply Center Columbus, Ohio	$764.5	V
TOTAL:	$9,040.3	

1/ SBA estimate. (All other dollar estimates provided by DOD installation officials in April 1983. SBA considers Army-furnished dollar estimates for Redstone Arsenal Missile Command and Armament Readiness Command to be significantly understated.)

Attachment "B"

U.S. SMALL BUSINESS ADMINISTRATION
Oklahoma City Air Logistic Center/BC (SBA)
Tinker Air Force Base OK 73145

31 January 1984

ATTENTION:__________________ FSCM:__________________

1. Attached you will find a set of microfiche entitled Part Number Advanced Procurement Planning List (PNAPPL), which has been prepared by the Oklahoma City Air Logistic Center and provided to you by the Small Business Administration to assist you in securing source approval to national stock numbers which are projected for procurement within the next two years by Oklahoma City Air Logistic Center at Tinker Air Force Base. The enclosed eight sheets of microfiche (headed F1D075A600 APPS Report Fiche Tap 01/17/84) are divided into four sequences. The first is in the original equipment manufacturers part number sequence, the second is in "noun" or "nomenclature" sequence, the third is in manufacture code (incumbent) sequence, and the fourth (last) is in national stock number sequence.

Please note that the column identifiers in paragraph 2, which follows applies only to the part number sequenced fourth of the eight sheets of microfiche.

2. Description of contents of PNAPPL microfiche:

a. The first column is the original equipment manufacturer's part number.

b. The second column is the national stock number.

c. The third column is a "noun" for the subject part.

d. The fourth column is the Federal Supply Code for Manufacturers. This column represents the last source of supply of the subject national stock number, but not necessarily the original equipment manufacturer. For definitions of Federal Supply Code for Manufacturers, please refer to microfiche H8-2 section B, which is available at most Defense Contract Administration Services Offices.

e. The fifth column is the Inventory Manager designator code (for in-house use only).

f. The sixth column is the procurement method code, and procurement method suffix code (See Atch 1 and 2).

g. The seventh column is the apportionment year quantity, which is the quantity that the Oklahoma City Air Logistic Center anticipated buying prior to 01 October 1984.

h. The eighth column is the apportionment year value, the estimated contract value of the apportionment year quantity, based on "last" cost.

i. The ninth column is the budget year quantity, which is the quantity that Okahoma City Air Logistic Center anticipates buying in fiscal year 1985.

j. The tenth column is the budget year value, the estimated contract value of the budget year quantity, based on "last" cost.

3. We recommend you utilize the PNAPPL microfiche as follows:

Step 1: Compile a composite list of parts (in part number sequence) which you have (a) made for the original equipment manufacturer, or (b) never actually manufactured, but do not have complete engineering data to produce, and have made similar parts.

Step 2: Compare your list from Step 1 to the first section (part number sequence) of the PNAPPL microfiche parts which Oklahoma City Air Logistic Center expects to be buying between now and October 1985 by annotating your list with national stock number, procurement method suffix code, sum of the apportionment year value, and budget year value from the PNAPPL microfiche.

Step 3: Divide your list, as generated by Step 2, into two lists by inspecting the alpha character of the PMC (5th) column.

a. List "G" is those NSN's which have a "G" in column 6. This list is to be processed via Step 4, which follows.

b. List "Non-G" is the balance of your list generated via Step 2. This list is to be processed via Step 5.

Step 4: If the procurement method suffix code is "G", you are invited to mark up the relevent pages of the "Bidders List Catalog". Prior manufacture, or even possesion of engineering data is not required in this case, since Oklahoma City Air Logistic Center will provide all required manufacturing data with the solicitation. Ms Janie Sayon may have already provided you with a copy of this catalog. If she has not, or you desire another copy or any other information with respect to this parameter of the program, known at Oklahoma City Air Logistic Center as the J0.14 Program, please contact:

OC-ALC/PMXD
ATTN: Janie Sayon
Tinker AFB OK 73145
(405) 739-4507

Note: File maintenance into the J0.14 will not assure you of being solicited for future buys, but will assure that your name will be made available to the buyer as an interested potential source, on a rotating basis.

Step 5: If the procurement method suffix code is not "G" (or blank), rearrange your list into descending dollar value according to the sum of apportionment year value and budget year value. Working down the list, if the "Type" from Step 1 was "a" (actually made), compile a file of the following in anticipation of compliance with (a) and (b)(1) of the M-4 clause per AFLC DAR Sup 3-501 (AF) (see atch 3).

a. Cover letter requesting source approval is to be addressed to:

OC-ALC/CRS
ATTN: Bob Lewis
PNAPPL PROJECT
Tinker AFB OK 73145
(405)736-3218

This cover letter should cite national stock number, part number, a non-binding estimate of your production lead time, and your federal supply code for manufacturers. Each of these files must stand alone. Do not request qualification of more than one national stock number in any file, and do not cross reference files.

Be sure to address the assigned procurement method suffix code from column 6 of the PNAPPL microfiche and Atch 1. If the procurement method suffix code is "N" for example, make some statement as "we heve all required special test equipment in-house and have a right to it".

b. Oklahoma City Air Logistic Center anticipates providing a quarterly update of the PNAPPL microfiche to contractors who actively participate in this program. This is an appropriate time to request being placed on the updated mailing list. Include a rights statement as copied from the Defense Acquisition Regulation (see bottom left corner of Atch 4).

c. Attach copy of original equipment manufacturer's "top" drawing to demonstrate your possesion of "current data". Do not include sub drawings, material and process specs, etc. If the original equipment manufacture is Pratt & Whitney, attach current requirements control card or quality assurance document. This data will be returned to you if you so request.

d. Attach copies of your two most recent purchase orders from the original equipment manufacturer, and one matching shipping document. One purchase order may suffice, if accompanied by a shipping document. Note: In the event that Oklahoma City Air Logistic Center has experienced some quality control problems with the national stock number, additional data/effort may be required prior to source approval.

Your approval will cause your federal code for manufacturers to be file maintained into the computer which will identify you as acceptable source, and you will be solicited on the next buy. The single exception is that if two or more small businesses secure qualification, the solicitation will be set aside for small business only, and qualified large businesses will not be solicited.

Note: The effort and expense expended by yourself in complying with the requirements of Step 5 is recognized. We hope you also recognize (1) that your government is very concerned with the maintenance of the integrity of the weapon systems that these spare parts support and (2) the expense to your government, and hence ultimately to yourself in approving you as a supplier.

To keep a rational balance between cost (both yours and your government) we recommend you do not pursue source approval in accordance with Step 5, unless the sum of Apportionment Year Value and Budget Year Value equals or exceeds $2,500. This decision, however, is yours to make. Please rest assured that your government will accept your decision in this matter, and will work with you regardless of your decision in this matter, regardless of the sum of Apportionment Year Value and Budget Year Value.

Step 6: After exhausting efforts in accordance with Steps 4 and 5, it is your option to seek source approval by "similarity" (Think back to Step 1b).

a. Cover letter requesting source approval by similarity is to be addressed to:

OC-ALC/CRS
ATTN: Bob Lewis
PNAPPL PROJECT
Tinker AFB OK 73145
(405) 736-3218

This cover letter should cite national stock number, part number, a non-binding estimate of your production lead time, and your federal supply code for manufacturer's. Each of these files must stand alone. Do not request qualification of more than one national stock number in any file, and do not cross reference files. Be sure to address the assigned procurement method suffix code from column 6 of the PNAPPL microfiche and Atch 1. If the procurement method suffix code is "N" for example, make some statement such as "we have all required special test equipment in-house and have a right to use it".

b. Identify the part for which your are already qualified, both by national stock number and original equipment manufacturer's part number.

c. Attach proof of approval, and top drawing (same as 5c above).

d. Identify part which you seek source approval by national stock number and original equipment manufacturer's part number.

e. For the part you are requesting approval, attach all drawings, both top and subs (and all RCCs if the O.E.M. is Pratt & Whitney). Attach the top page of all material and process specifications cited on the drawings and/or RCCs.

f. Attach a narrative to convince the evaluating engineer that the equipment and expertise required to manufacture the approved part, Step 5a, is necessary and sufficient to produce the part for which source approval is sought.

Note: Based on the government engineers responsibility to maintain the weapon system's integrity, he may require additional information/efforts/ expenses on your part to assure your capability prior to awarding of a contract. This may include actions on your part (at no expense to the government) such as one or more parts for verification, or an installation check/engine run/test flight. In the event that you will be required to pay all or part of this expense, you will be so advised and your written concurrence obtained before such expenses are incurred.

Step 7: If the procurement method suffix code is "G", then a complete set of drawings and specifications will be provided with the solicitation. However, if the procurement method suffix code is not "G", Oklahoma City Air Logistic Center will provide NO engineering data to either assist you in securing source approval or performance of a contract after award. However, a vast multitude of original equipment manufacturers drawings and specifications may be purchased from the government. If this need arises, contact:

AFALC/PTD
ATTN: Ms Carolyn Brown
Wright Patterson AFB OH 45433
(503) 257-4233

Notice that if:

. . . . The procurement method suffix code is "P", the drawings have been determined to be proprietary, and cannot be released.

. . . . The procurement method suffix code is "D", the United States Air Force does not have the drawings.

. . . . The procurement method suffix code is "H", the United States Air Force does not have complete data.

Step 8: In the event you have some "over-run" on the shelf, which you wish to sell to the government, you are invited to submit a listing to Oklahoma City Air Logistic Center. This should be mailed to:

OC-ALC/PMXDA
ATTN: Paula Clark
Tinker AFB OK 73145
(405) 739-5526

This list must cite:

***National Stock Number

***Original equipment manufacturer's part number

***Quantity on hand

***Your federal supply code for manufacturers

***Original equipment manufacturer's federal supply code for manufacturers.

***Condition code (new, used, repaired, etc)

4. Definition of the contents of J041.6XA microfiche: This microfiche product may be obtained free of charge by calling Ms Linda Sutton at (405) 739-2601, or by writing to:

OC-ALC/BC
ATTN: Ms Linda Sutton
Tinker AFB OK 73145

This is an annual product, and is updated each October. There is no automatic mailing list, thus you must make an annual request if you desire a "current" copy.

a. "Stock Number" is the national stock number.

b. "PIIN" is the contracts awarded by Oklahoma City Air Logistic Center within the time frame 01 July 1973 to 01 October 1982. Please notice that if the ninth position in the PIIN is a "D" (example: (F34601-81-D-1932-SD06), then the contract was for an indefinite quantity, and hence probably was an "overhaul" contract. This could result in a misleading "unit cost" as derived by dividing L/I Price by L/I Quantity from (d) and (e) which follows.

c. "DT of Award" is the Julian date of award. Example 78271 is the 271st day of 1978.

d. Contract L/I Quantity is the quantity of subject national stock number procured by the instant contract (4b).

e. L/I Price is the value of contract (4b).

f. ACT PLT is the actual (not necessarily contracted for) production lead time.

g. CTR ID is the federal supply code for manufacturer's of the contractor.

Note: Most national stock numbers are cited several times. Hence, you can "get a feel" for the frequency of buys (4c) and the normal contract quantities (4d).

5. In the unlikely event that your federal supply code for manufacturers, as cited at the top of page 1, is in error, please advise us by phone as soon as possible, so we may correct our records.

6. If your company is a "Large" Business, we would be remiss if we did not point out to you the possibility of the procurement being a "small business set aside" should two or more small businesses become qualified.

7. If you have any questions on any of the above information, or experience any difficulties with this program, please call Richard Hardin, Debbie Lenz, Harry Turk, or myself at (405) 231-4785, (405) 739-2501, or (405) 739-7821, or write to:

OC-ALC/BC (SBA)
PNAPPL PROJECT
Tinker AFB OK 73145

We would appreciate a copy of all letters, without attachments, which you write to any Oklahoma City Air Logistic Center organization in conjunction with this program.

Sincerely,

Frank G. Miller

FRANK G. MILLER
Small Business Administration
Procurement Center Representative

4 Atch
1. Definitions
2. Procurement Method Code
3. M-4 Clause (was M-11)
4. AF DAR Sup

PROCUREMENT METHOD CODE (PMC)

PMC 1 -- ITEM ALREADY COMPETITIVE

PMC 2 -- ITEM DETERMINED FOR FIRST TIME TO BE SUITABLE FOR COMPETITIVE PROCUREMENT

PMC 3 -- ITEM SCREENED AND FOUND TO BE PROCURED DIRECTLY FROM THE ACTUAL MANUFACTURER OR VENDOR, INCLUDING A PRIME CONTRACTOR WHO IS THE ACTUAL MANUFACTURER

PMC 4 -- ITEM DETERMINED FOR FIRST TIME TO BE SUITABLE FOR DIRECT PURCHASE FROM THE ACTUAL MANUFACTURER OR VENDOR

PMC 5 -- ITEM DETERMINED NOT SUITABLE FOR COMPETITIVE PROCUREMENT OR DIRECT PURCHASE AND WHICH, THEREFORE, CONTINUES TO BE PROCURED FROM THE PRIME CONTRACTOR WHO IS NOT THE ACTUAL MANUFACTURER

M-4. RESTRICTIVE ACQUISITION METHOD CODE (AMC) ITEM

(a) Under the DOD High Dollar Spare Parts Breakout Program, only the source(s) listed in paragraph (g) below have been approved by the Government to supply the item(s) required by this solicitation.
(b) Offers from firms not listed in paragraph (g) may be considered for award if:

(1) The offeror submits prior to or with its proposal proof of prior Department of Defense approval as a supplier of the item(s); or

(2) The offeror submits prior to or with its proposal evidence of having satisfactorily produced the item(s) for a Department of Defense agency or the prime equipment manufacturer(s); or

(3) The offeror submits prior to or with its proposal engineering data (such as manufacturing controlled drawings, qualification test reports, quality assurance procedures, etc.) sufficient to determine acceptability of the item(s).

NOTE: This could result in the acceptance of a different part number from that cited in paragraph (g).

(c) Offers based on submittal of information required by paragraph (b) above will, as determined by the PCO, be considered for award under this solicitation **ONLY IF:**

(1) The Government can determine that the item(s) will be acceptable; and

(2) The Government can evaluated the submittal, grant approval and award a contract in time to meet the Government's requirements.

(d) A dealer offering newly manufactured items must submit with its proposal a certification that they will be obtained from a source listed in paragraph (g).

(e) A firm offering surplus Government parts manufactured by one of the approved sources listed in paragraph (g) must notify the PCO at least 10 days before the solicitation closes. The Government will determine whether surplus is acceptable considering criticality of the item(s) and the absence of normal in-process inspection and quality assurance procedures for surplus. If surplus is acceptable, the PCO will amend the solicitation to incorporate inspection criteria necessary to insure the surplus meets specifications.

(f) The Government's decision regarding acceptability of an offeror's submittal under paragraphs (b), (d) and (e) above, and the PCO's determination under paragraph (c) above shall be final.

(g) The listing of approved sources and their products below does not constitute a predetermination of responsibility under DAR 1-900. (IAW AFLC/PM LTR 1983 May 04)

APPROVED SOURCES

^ORETREIVE TEXT MFG CODE, IF NOT THERE
THEN TYPE IN AND TAB BETWEEN EACH^O

ITEM NR **MANUFACTURER** **MFG CODE** **P/N**

^C

Definitions

(i) "A" The Government's rights to use data in its possession is questionable and must be resolved.

(ii) "B" Procurement of this item is restricted to source(s) specified on "Source Control" drawings.

(iii) "C" This item requires engineering source approval by the design control activity in order to maintain the quality of the item. Substantiation of alternate sources for these parts must be in accordance with the design activity's procedures as approved by the cognizant Government engineering activity. Procurements must be made only from approved source(s).

(iv) "D" The data needed to procure this item from additional sources is not physically available, it cannot be obtained nor is it possible to draft adequate specifications or any other adequate description of the required material for a solicitation of bids or proposals from additional sources.

(v) "E" There are reasons to believe the procurement status of this item can be improved. Screening has not been completed.

(vi) "F" This item is in phased provisioning.

(vii) "G" This item is technically suitable and legally clear for advertising and the data package is complete.

(viii) "H" The Government does not have in its possession sufficient, accurate or legible data to purchase this item from other sources. Procurement of this item must be limited to current source(s).

(ix) "J" Procurement of this item is restricted to the system/subsystem prime contractor by the total package procurement concept provision in the acquisition contract. This alpha will be used only as a suffix to PMC 5.

(x) "K" This item is produced from class 1A castings (e.g., class 1 of MIL-C-6021) and similar type forgings. The process of developing and proving the acceptability of high-integrity castings and forgings requires repetitive performance by a controlled source for each casting or forging along identical lines to those which result in initial acceptability of the item. Thus, the particular manufacturer's process becomes the controlling factor with regard to the acceptability of any such item. Procurements must be limited to sources which have the unique capability to produce this item.

(xi) "L" The low dollar value of procurements makes it uneconomical to undertake to improve the procurement status of this item.

(xii) "M" Application of master or coordinated tooling, e.g., numerically controlled tapes, is required to produce this item. This item has features (contoured surfaces, hole locations, etc.) delineated according to unique master tooling or tapes and is manufactured to min/max limits and must be replaceable without additional tailoring or fitting. This item cannot be manufactured or configured by a secondary pattern or jigs independent of the master tooling and cannot be manufactured to requisite tolerances of fit by use of commercial precision machinery. In this context, jigs and fixtures used only for ease of production are not considered master tooling.

ATTACHMENT 1

(xiii) "N" This item requires special test and/or inspection facilities to determine and maintain ultra-precision quality for the items function or system integrity. Substantiation and inspection of the precision or quality cannot be accomplished without such specialized test or inspection facilities. Other sources in industry do not possess, nor would it be economically feasible for them to acquire such facilities.

(xiv) "P" Rights to use data for procurement of this item from additional sources are legally unavailable and cannot be acquired by purchase.

(xv) "Q" This item requires exceptional unique manufacturing processes or materials. Knowledge and techniques do not exist in published specification detail to ensure requisite quality and reliability if the item is purchased from other sources.

(xvi) "R" The data or the rights to use the data needed to purchase this item from additional sources are not owned by the Government and it has been determined that it is uneconomical to acquire them by purchase.

(xvii) "S" Procurement of this item is restricted to limited source(s) because security classification of "Confidential" or higher prevents public disclosure.

(xviii) "T" Procurement of this item controlled by QPL procedures.

(xix) "U" This item is uneconomical to compete.

(xx) "V" This item has been designated a high reliability part under a formal reliability program. Probability of failure would be unacceptable from the standpoint of safety of personnel and/or equipment. The required data to define and control reliability limits cannot be obtained nor is it possible to draft adequate specifications for this purpose. Continued control by existing source(s) is necessary to ensure acceptability reliability.

(xxi) "W" Parts may be procured by the method indicated by the procurement method code if military or adopted industry specifications are substituted for the contractor's data which are subject to the Government's limited rights of use.

(xxii) "Y" The design of this item is unstable. Engineering, manufacturing, or performance characteristics indicate that the required design objectives have not been achieved. Major changes are contemplated because the part has a low process yield or has demonstrated marginal performance during tests or service use. These changes will render the present item obsolete and unusable in its present configuration.

(xxiii) "Z" Procurement of this from the current source is necessary to ensure standardization and interchangeability of parts.

1-201.15 Savings. The reduction in dollars spent for spare parts purchased for the first time either competitively or by direct purchase breakout, after deduction for appropriate cost offsets, whether by initial provisioning procurement or replenishment procurement. Savings may be computed on one or more procurements of a PMC2 or PMC4 item during the 12-month period subsequent to the first procurement of the item after being broken out.

1-201.16 Item Stratification. The process of selecting items for procurement analysis as well as the establishment of priorities for screening review.

★ 1-313 Acquisition of Parts.

(a) AFLC/LO is responsible for implementing the "DOD High Dollar Spare Parts Breakout Program" (AFR 57-6) within the Air Force. This program provides for the initial assignment of an acquisition method code (AMC) to centrally managed items and the periodic review of the contracting method decision based on the item's projected annual buy value. The AMC serves as a guide for contracting personnel. When the assigned AMC indicates that the purchase of the item is restricted to approved sources or a sole source, the reason for the restriction is identified by the alpha suffix code. All AMCs other than those with a "G" suffix involve some restriction. A restrictive code does not prohibit award to other than the previously designated source(s) nor does it preclude approval of a potential new source for future contracts, so long as the new source can clearly demonstrate its ability to satisfy the Government's requirements. Also, a restrictive code does not preclude consideration of a surplus dealer or other nonmanufacturing source when the item offered was manufactured by an approved source. Surplus items will be considered under the provisions of DAR 1-1208 as implemented by AFLC. Specific requests from firms seeking approval as a potential manufacturing source for an item that has been assigned a restrictive AMC will be processed in accordance with paragraph (c) below.

(c) AFLC/PM is responsible for the implementation of procedures for processing requests from sources seeking approval as a potential source for an item with a restrictive AMC. Requests for approval as a potential source will be processed in accordance with the following policy:

(i) When a firm seeks approval as a potential source for an item with a restrictive AMC, that firm must demonstrate affirmatively that it can produce the item. The potential source must provide the Government with all the necessary evidence which proves the item proposed will meet the Government's requirements.

(ii) When there are indications that a firm seeking approval as a potential source has submitted technical data that may be a copy of another source's data, the following certificate must be executed before the firm will be approved as a potential source:

> "I hereby represent and certify that the data submitted as part of (name of firm) request for approval as a potential source for part number ________ was obtained or developed in a legal manner and (name of firm) has full legal rights to use the data."

(iii) Normally the firm requesting approval as a potential source will be responsible for all costs associated with the testing of the item.

(iv) If a change in a restrictive AMC (numbers 3, 4, or 5) with other than a "L" suffix code is being considered which will revise the AMC to a competitive code (No.'s 1 or 2), the current sole source of the item should be notified that a change in the restrictive AMC is under consideration. Where the restrictive AMC was established on the basis of a contractor recommended code (CRC) pursuant to MIL-STD-789, the firm that submitted the CRC and the current sole source must be notified of the proposed change and given 30 days to comment.

(v) Any allegations by a firm that the use of its data by the new source constitutes a violation of trade secrets, patents, copyrights, or other proprietary rights is a matter to be resolved privately and not by the Air Force.

(vi) Any firms which submit comments in accordance with subparagraph (iv) above should be advised of the final Air Force decision regarding revision of the AMC.

1-314 Disputes and Appeals.

★ 1-314.50 Procedures.

(a) General. Where an oversea command is authorized use of dispute clauses providing for an intermediate appeal, the oversea command staff judge advocate rather than the Staff Judge Advocate, AFLC/JA, will be the source of advice regarding proposed decisions and will be the channel for forwarding data relating to appeals. In all other cases proposed final decisions will, prior to transmittal to the contractor, be referred for review and comment to the Staff, Judge Advocate, AFLC/JAB. The file forwarded for review will be complete in all respects. The file should contain: (i) a copy of the contract and all applicable amendments, specifications and drawings; (ii) all communications relative to the subject matter of the dispute to include correspondence between the contractor and the contracting officer and all intragovernmental communications; and any additional pertinent information such as memorandums for the record or memorandums of conferences. After the referral has been accomplished, the findings and decision will be reexamined by the contracting officer in the light of the advice and comments proffered by the appropriate staff judge advocate. If such reexamination by the contracting officer reveals the propriety of modifications or additions, he or she will make the appropriate changes. After such reexamination, and changes if appropriate, he or she will transmit the findings and decision to the contractor in person obtaining a receipt therefor, or by Certified Mail, return receipt requested.

(b) Processing. When a notice of appeal from a

Senator **Dixon**. May I pursue the question of the certificate of competency with Mr. Sanders at this point, Mr. Chairman?

The **Chairman**. Of course you may.

Senator **Dixon**. Mr. Sanders, would you explain briefly to the committee how the certificate of competency program operates at the SBA?

Mr. **Sanders**. Well, again, I think, Senator, it would be more informative to you to have Mr. Hathaway relate that back to you in detail, as he works with it every day.

Senator **Dixon**. Fine. Would you do that?

Mr. **Hathaway**. Yes, sir, I would be happy to.

A bit of an oversimplification: The certificate of competency process, or what we refer today in and day out as, COC's, occurs when, on a competitive acquisition, a small business concern is low bidder. But as a result of a negative preaward survey accomplished by the buying activity itself, that small business low bidder is determined nonresponsible; that is, not capable for financial or technical reasons, of doing a job.

Essentially, then, if that proposed procurement exceeds an estimated dollar value of $10,000, by law and by regulation, that whole case is transferred to the SBA. The SBA then does its own independent survey related to that firm and related to that particular procurement.

If we find as a result of our independent survey that in our judgment that small business low bidder can in fact accomplish that procurement successfully, then we formally notify the buying activity of that, and the award then to that low, previously disqualified small business concern, the award is in fact given to that concern.

Senator **Dixon**. Is that $10,000 in the law, or is that a rule or regulation of the agency?

Mr. **Hathaway**. It has been more or less an operating rule, conditioned on buy, conditioned on resources.

Senator **Dixon**. On what statutory basis, Mr. Hathaway, and for what administrative purpose did the Small Business Administration determine that a contracting officer did not have to refer an otherwise low small business bidder to the agency so that that small business could be given the benefit of the agency's review?

Mr. **Hathaway**. I don't think that we ever made that determination, sir. I think what has occurred through the process of operation is that the volume related to the COC referrals commenced or picked up at the $10,000 level. That is not to suggest that we have not done, and are not doing, COC's below the $10,000 tier.

The fact of the matter is, there are many, many cases which I have described wherein there is a low small business bidder who may be found, at least initially, unqualified to perform a contract, and without the resources, really, to cover all of those possible situations, I am not sure that the SBA as an agency would know whether or not we are receiving all appropriate referrals under those circumstances.

Mr. **Sanders**. Don, would you care to comment on the increased activity in the COC's?

Mr. **Hathaway**. I did not bring that data with me, sir.

Mr. **Sanders**. It seems to me those activities have increased about fourfold in the last several years, and so the COC's have become an enormous workload situation which has led us to consider higher thresholds.

I might add, Senator, that whenever you consider drafting a bill, and we are delighted—before you came in, I wanted to compliment you on your attention to this problem, to the opportunity for the taxpayers and the defense industry and to small businesses for your efforts in addressing these problems.

We are not commenting on the specifics of the bill, but certainly you are moving in the right direction, we feel, and I would only caution that you leave some management flexibility in these things to respond, that we don't add more rigidity on top of the rigidity that is already there.

It is appalling to me in a certain sense, but not surprising, like so many efforts of management in government, we are far behind the state of the art. It is amazing to me that 3.9 million different parts don't have pictures on them when we are in a technology age that you can call up a picture or something. I would think—Frank, isn't it true?—that lots of times everyone is wondering what this part is when you are dealing on it. It has some number and nobody can really figure out what it is.

Senator DIXON. Well, that is sort of a simple reform that I am certainly going to pursue. I know the chairman and I and Senator Levin and others have suggested a variety of things that ought to be done in that regard, and I thank you for your comments.

Mr. SANDERS. Well, I am just going to suggest certainly not putting in the law saying, "Henceforth, everybody will have a picture." That would set the defense industry back probably 10 years. [Laughter.]

And it would cripple the Defense Department. We wouldn't want that. But we do try to make it a cooperative effort, even though sometimes we are in an adversarial situation. I think Frank points out that it is best worked when we cooperate and the people on the scene cooperate in the interest of the taxpayer.

Mr. MILLER. Senator, the cooperation at Tinker Air Force Base with SBA is just phenomenal. It is something I enjoy terrifically that my other counterparts are quite envious of because they do not enjoy that cooperation. General Burpee and his staff are just superb.

The CHAIRMAN [resuming as Chair]. Thank you very much, gentlemen.

Our next witness is Derek Vander Schaaf, Deputy Inspector General of the U.S. Department of Defense.

All statements of the witnesses will be included in their entirety in the record, and only because of the time factor that is involved, the committee would be very appreciative if witnesses would summarize their statements.

Mr. Vander Schaaf, it is nice to have you before the committee.

STATEMENT OF DEREK J. VANDER SCHAAF, DEPUTY INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

Mr. VANDER SCHAAF. Thank you, Mr. Chairman.

I certainly will summarize my statement and will put the whole statement in the record. I have no intention of trying to work my way through the whole statement.

This is the first opportunity we, in the DOD Inspector General's Office, have had to appear before this committee. I welcome the opportunity, and I hope the testimony I can provide will be helpful in your deliberations on this bill.

You are obviously concerned with a couple of aspects of the problem, one dealing with spare parts, and the other, what provisions should or should not be in the bill before you, S. 2489.

Before I get into those things, I want to mention that the Reagan administration did launch a campaign against fraud, waste, and abuse and the kinds of situations you have pointed out here this morning. They have made some major changes in how we manage our weapons system procurement practices. I also want to tell you that there is a minirevolution taking place in the way we buy spare parts in the Department.

Secretary Weinberger has given the IG his full cooperation in going after these problems, and the Department's internal auditors, including mine, are playing a very important role in that process. We have been covering spare parts with a large number of audits in the past 3 years. We have completed approximately 140 reports; we have another 25 in progress; and we have a number planned for 1985 to followup on some of the reforms that have been put in in the last 6 or 8 months. These audits deal with problems of pricing, computation of requirements, the management of technical data, inventory management of the items when they are on the shelf, excess spare parts and reutilization of that excess, and getting rid of the spare parts when they are no longer required or property disposal.

What I am going to talk about today is only a very small part of a very big system. As you know, we are dealing with 14 million contractual actions, something like 4.2 million line items. I would classify about 3.5 million of those as being in the spare parts category. So sheer size alone causes a problem. We have a lot of very hard-working people over in the Department. We are trying to make the system work. I feel we have got to place the responsibility upon them, and they have to be held responsible for what they do or they fail to do.

To some extent, we cannot legislate these problems away. We have got to make people be responsible in their jobs for what they do.

Let me tell you very briefly what some of the problems are. This overpricing is not a simple one-issue problem; there are a whole series of shortcomings involved. We have requirement determination difficulties; inventory management comes into play; the automated data support systems are not up to date; there are cataloging problems; and technical data: we don't use it when we have it; we don't always get it.

We have problems with the use of nomenclature. That was brought out very clearly this morning when somebody showed you a bulkhead. When I think about a bulkhead, I am thinking about a divider that holds a major section of an airplane or a ship together;

I am not thinking about a little piece of metal part that you just saw.

We have problems with proprietary designations; failure to use standardized parts when they are available; we often do not buy from the actual manufacturer; we buy in uneconomical quantities from time to time; we have got some personal attitudes that have to be changed; and, most importantly, the system tends to lack cost incentives on the part of the people that have to work in the system.

Now, many of these shortcomings have got to be addressed in the Department of Defense, and they are solely the Department of Defense's problems. Other aspects of this situation affect the defense contractor and how he does his business. Two of those are addressed in your bill. I am talking about technical data and avoiding unnecessary passthrough costs.

We have found in our audits that we do have what I call pyramiding and passing of products from actual producers through jobbers to distributors to a prime who eventually sells to the Government. We have one audit in process in which we had looked at some 2,600 items—2,655 items, to be exact—and we were going to spend about $92 million for those items. We found that 2,248 of those items costing about $20 million were not produced by the prime contractor but were produced somewhere else down the line.

When we looked at that $20 million, we found that we had incurred overhead and profit of some $7 million on the passthrough aspects of this particular sample. I go into this in more detail in my statement. We feel there is some potential for savings in this area, and you will see what I am talking about in more detail in my statement.

The second issue with respect to items that go outside of the Department of Defense involves this technical data issue: Who owns the technical data, the contractor, or the Government? Whether or not the Government ought to acquire it how to manage what we acquire so that it can be effectively used to reduce prices and support our industrial mobilization base.

We have done an audit on the management of technical data, and we, found a number of problems that your committee staff and others here are well aware of. We found that often the Government contracted for data and did not receive it; at other times we received the data, but even though we had it, we never used it to break out the item to another production tier that could provide it to us at a lower cost.

When we did our review of technical data, we looked at six major weapons systems on which we are going to be spending an awful lot of money on spare parts in the next 6 years. The weapons systems involved were the F-14, the A-10, the F-15, the UH-60 or Blackhawk helicopter, the FFG-7 guided missile frigate, and mortar and artillery locating radar. Actually, they are two different things.

But in the process of doing this, we also found a problem at the Defense Industrial Supply Center, which is a buying center of the Defense Logistics Agency. We found that when they were getting these parts for follow-on purchases, they were not getting all of the technical data that we had contracted to receive. There were people in the particular service involved that were not providing us technical data, and who were not in turn getting it from the contractors as they had ordered it, and we made them aware of that problem. Hopefully, we can rectify it.

I want to tell you up front that we have also found some very positive things in the use of technical data. We did not find people going out and spending a lot of money for technical data they didn't need. We also did not find that proprietary data rights were a major problem in terms of our inability to pursue competitive procurements.

We found that largely because there were so many other opportunities that are not stamped "proprietary" that we can still do a lot without worrying about the proprietary data. I have had a lot of personal conversations with managers and others in this business who indicate that the use of that "proprietary" stamp is in fact a problem and that it does impede competition.

I don't think we should abandon our efforts to limit proprietary rights to specific periods on future contracts or to see removal of those data restrictions when necessary, particularly when they have been stamped on some blueprints for a decade or more. You address those issues in your legislation.

Let me summarize here by saying there are no easy solutions to this. We have to change attitudes both within the Government and within the contractor community. We cannot be doing "business as usual." Most importantly, we must ensure that the corrective measures we have already identified are institutionalized. Otherwise, based on past history, we are likely to see backsliding and the cycle repeat itself in 5 or 7 years.

I worked for the House Appropriations Committee on the other side of the Capitol Building for 10 years. Many a time I would go out in the field and pick up overpriced spare parts that we are talking about, and I could lay them on the table, but I could never get people to really focus on the problem and make the required systemic changes.

I think this time, Senator, we have really got some focus on it all over the country, as a matter of fact. So where legislation can play a very important role in institutionalizing the fixes that need to be made.

Now, let me go on and discuss some of the bills that are before us that we are talking about, because I do have a concern that there is a whole lot of legislation out there, probably too much. We have the Governmental Affairs Committees on both sides involved in this; the Armed Services Committees are involved in it, and the Small Business Committees.

I do not know what the total number of bills is, but I do get concerned that at some point in time we are going to pass three or four bills all dealing with this problem and all dealing with it slightly differently, which will only add confusion. Hopefully, there is somebody in this legislative process that will blow the whistle, throw the yellow flag, and say, "Hey, guys, you're piling on. We've got to do this a little more carefully and not look at each piece of proposed legislation separately from the rest."

Now, with respect to the specific bill before you. I understand this bill replaces S. 1730. I want to tell you that this is the best of these bills that I have seen. I like it for two reasons.

Now, what I like most about your bill is it emphasizes the front-end problem. If you don't take care of these spare parts problems and make arrangements to compete the products early in the design and early in the production process, at the first units of production and during the design stage, it is very difficult to get it accomplished later on. So I think that aspect of this bill is extremely good.

The other aspect that I like is that the prequalification requirements could be challenged so that they could be employed in situations where a legitimate need is found by the contracting officer to exist. He can still use prequalification requirements, but if he has fewer than five potential bidders you challenge him to go out and find some more, before he places an order.

I also want to say that the use of qualified products lists serve an important purpose, and I think your bill recognizes that. It does not attempt to outlaw them. Some of the bills that I have seen at least in their early stages, effectively seemed to read: You cannot have a qualified products or a qualified bidders list; That would be a disaster. We need those kinds of lists to manage.

Senator **Dixon**. I wonder if you could elaborate on that, if I might interrupt, Mr. Chairman. That is a very important issue in this legislation. There is a lot of concern about it among small business groups in the country.

Would you give me a little bit more detail on the qualified bidders list and the qualified products list? There is a perception out there, quite frankly, that there is a little bit of the old buddy system involved in this and that oftentimes procurement agencies employ this to favor friends or to effectively limit competition. I would like for you to get into that a little.

Mr. **Vander Schaaf**. Yes, Senator. I don't know if they effectively use it to favor friends. I have never seen that, but——

Senator **Dixon**. I have seen it myself.

Mr. **Vander Schaaf**. I won't say it never happens.

Senator **Dixon**. It is known to exist by the Navy. But we will go into it another time.

Mr. **Vander Schaaf**. Yes; I agree. You are right. These lists can be and have been abused from time to time. I have reason to believe that there are more products on the qualified products list than need to be.

They are also used as ways to delay and stall the producer who wants to come in and bid on something in the future. He is given, "Well, you're not on the list; you have to get on the list." "How do I get on the list?" "Well, send me your qualifications, and then we—"

Senator **Dixon**. I would greatly appreciate, in some detail from you for the chairman and myself and others on this committee, your suggestions about what you consider fair parameters for this kind of situation. How do we determine that it is being fairly employed, the qualified bidders and the qualified products lists and things of that nature.

Mr. **Vander Schaaf**. Would you like that for the record, or do you want me to tell you?

Senator **Dixon**. I would greatly appreciate, in detail, what you suggest we ought to do about that.

Mr. **Vander Schaaf**. I think one of the things we have to avoid is the business of turning the item over, the proposal from the man who is not qualified, to the prime contractor to make—and sometimes it seems to me he makes the sole determination of whether or not that individual ought to be allowed to bid on the given item in contention.

Well, I have no problem with turning it over to the prime to have him take a look and make some evaluation, but I have too much indication that the prime has the final say, and he has a very definite conflict of interest in the situation, as you can imagine. So we have got to effectively preclude that somehow.

I think we have the capability to do that in the Government already. I don't think we need any new legislation. We have a lot of people in those buying centers who are engineers, who have in their job descriptions that they are qualified to make these assessments, and we have got to put the burden on them to make those assessments.

We have even had circumstances where a supplier has supplied an item to a prime during the initial production phase. Then during the replenishment phase for this item, when we want to buy a replenishment spare part as opposed to an initial production item, he is told that he has got to requalify. We say: "Wait a minute; he has got to qualify? He provided this thing originally." That is a silly situation. Hopefully, the reforms we are putting in place in the Department will take care of some of these problems.

Now, let me make a couple more points, and then I hope we will have time for some more questions.

One of the things about tech data, your bill mandates that agencies develop an implementation plan to manage the technical data received under contracts for major systems. We have identified problems in this area, but I am not convinced that mandating that is going to do a lot of good. We in the Department know we have got problems, and we want to address them as much as you do.

Closely related to the issue of acquiring and managing technical data is the issue of whether or not certain technical data is rightfully the property of the contractor and/or the Government. I think your bill makes some very good points there and will help to clear up this matter of who owns these proprietary rights and is there a forum in which we can challenge that proprietary right, and I think the legislation is extremely good in that area.

Now, identifying these problems we are talking about is somewhat easier than fixing them, Mr. Chairman. We have got to find ways to do it. We have got to be careful in the process of doing it that we do not further burden the procurement system. The procurement system has regulations and directives and procedures to no end already, and some guidance, some legislative guidance, can be helpful; it could also be rather a hindrance if it were done wrong.

On balance, I think your bill is a good bill. When I say that, I am not speaking for the Administration; I am speaking for the Office of the Inspector General.

With that, I will quit and see if there are any questions.

[The prepared statement of Mr. Vander Schaaf follows:]

STATEMENT BY DEREK J. VANDER SCHAAF, DEPUTY INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

Mr. Chairman and members of the Committee, I am pleased to have this opportunity to appear before you today on behalf of the Office of the Inspector General, Department of Defense, to discuss the subject of obstacles faced by small business firms who wish to do business with the Department of Defense and the recently introduced Bill S.2489, "Small Business Competition Enhancement Act."

I understand that you are particularly interested in ways of removing obstacles faced by small businesses attempting to contract with the Government for the sale of spare and replenishment parts for major systems. I will confine my remarks to the experience of the Office of the Inspector General in this area and briefly comment on S.2489 and related bills.

One of the first things the Reagan Administration did after taking office three years ago was to launch a campaign against fraud, waste and abuse and make some long-needed and sweeping reforms in management and weapon system procurement practices. There is also a mini-revolution taking place in defense spare parts. Secretary Weinberger has given us his full support as we attempt to quantify and better understand the problem. The Department's internal auditors are playing an important role in that revolution.

Audit coverage of the DoD management of spare parts has been quite extensive during the past three years. Since the beginning of fiscal year 1980, DoD internal auditors have issued 140 audit reports on some aspect of spare parts and have 87 audits in process. We have another 25 planned through the end of fiscal year 1985. The topics generally covered by the audits are:

1. Procurement of spare parts available in the Federal Supply System and pricing of contracts.

2. Computation of requirements including initial provisioning requirements and supply management.

3. Management of technical data and its use in competition and parts breakout efforts.

4. Inventory Management.

5. Identification of excess spare parts, including reutilization.

6. Property disposal of spares, components and support equipment.

Audits to begin in FY 1985 will attempt to verify that corrective actions taken over the past year are in fact effective.

Mr. Chairman, you should recognize that the procurement problems I will discuss today represent only a small part of a very large and complex system. The DoD processes 14 million contractual actions each year, manages 4.2 million line items in its inventory, and spends billions of dollars for spares annually. Defense procurement regulations and procedures are very complex, and we have a lot of dedicated hardworking people who are trying to make the system work. We must place responsibility for lack of appropriate management attention on cost and competition directly on the individuals involved. In our efforts to help identify and correct the systemic weaknesses, we are planning 16 additional audits in the area of spare parts, including two DoD-wide audits. The DoD-wide audit on Acquisition of Engineering and Technical Data from Contractors is scheduled to begin in the second half of FY 1984 and the DoD-wide audit on the Effectiveness of Administering DoD High Dollar Spare Parts Breakout Program will start during the first half of FY 1985.

The Spare Parts Problem

The spare parts overpricing problem is not a simple problem of paying more than we should. Overpricing is the end result of a lot of shortcomings in:

- requirements determination

- inventory management
- automated data support
- cataloging
- use of technical data
- use of nomenclature
- control and use of proprietary designations
- failure to standardize
- buying from the actual manufacturer
- uneconomical quantities purchased
- personal attitudes
- and most importantly lack of cost incentives

Many of the shortcomings found through the audit process relate solely to Department internal practices and procedures while other shortcomings if they are to be corrected must affect defense contractors. Two of the latter concern the use of technical data and avoiding unnecessary "pass-through" costs.

We have found that altogether too many parts have been pyramided or passed from the actual producer through jobbers and distributors to a prime contractor. For example, we have an audit in process in which we review 2,655 items procured at a cost of about $92 million. We have tentatively concluded that 2,248 of these items costing about $20 million were not produced by the prime contractor but were subcontracted.

In some cases, contractors placed orders with parts manufacturers or consolidated orders from various vendors, but did little else for the Government. In other cases, parts were ordered from the vendors and shipped directly to the Government without being handled by the contractors. In no case did the prime contractor make product improvements or perform other enhancements such as testing. We believe that a significant percentage, if not all, of the $7.0 million in overhead and profit on the $20 million in parts costs could have been saved if the purchases had been made from the actual producer rather than the prime contractor. We only traced these parts to the second tier vendor and found that 159 items costing about $2.8 million were produced by small business. The pass-through cost was estimated to be about $900,000. I feel confident that had we traced the transaction further, we would have found that a large additional number were actually produced by small business. I hasten to add that the audited transactions took place before implementation of policy and program changes to enhance competition and improve procedures for spare parts procurements.

The issues with respect to technical data revolve around who owns it, the contractor or the Government; whether or not to acquire it; and how to manage what is acquired in a way that it can be effectively used by the Government to enhance competition, reduce prices and support the industrial mobilization base.

Our audit entitled, "Management of Technical Data and Its Use in Competitive Procurement" was a comprehensive evaluation of this subject. It showed that in past procurements of some high dollar value parts, competition has been hampered by two factors. First, the Government contracted for technical data necessary for subsequent competition that was often not received from the contractor. Second, when the data was received by the Government it often was not always used to breakout the highest priced items from the end item supplier.

Our audit covered six first line weapon systems, including the F-14, A-10 and F-15 aircraft, the UH-60 helicopter, the FFG-7 guided missile frigate and the TPQ-36/37 mortar and artillery locating radars. The items examined in detail were those on which the respective DoD components expect to spend large amounts on replenishment procurements in the future. For example, one of the items reviewed was a thermocouple for the F-100 engine. The unit price of the item was $215, but the Air Force anticipated spending over $1 million annually on replacement stocks of this item. In all, we looked at 340 high dollar value demand components on which the Services expected to spend about $500 million per year. Only 39 of these items were programmed to be procured competitively.

We concluded that for 41 of the items reviewed, with an estimated annual buy value of $39 million, the Government had insufficient technical data to buy them competitively. This condition existed even though the contractors for the weapon systems specified that data sufficient for reprocurement would be provided for these items. The lack of data for these items was due to a variety of causes. The terms of most of the contracts regarding provision of technical data were specific. However, in some contracts technical data was not a separately priced line item so that cost of the data could not be evaluated. In all but one weapon system, instructions regarding delivery schedules were inadequate or open ended. Thus, activities responsible for receiving the data from the contractors could not adequately administer these contracts to assure that all data was received and of the proper quality.

Although not a part of this audit, in a routine inspection of the Defense Industrial Supply Center (DISC) in February of this year we found a substantial problem involving a failure to receive technical data on new items submitted for procurement by DISC by one of the Services. This involved items for which the contract contained terms for furnishing technical data for provisioning. In a large number of cases contractors defaulted on these terms and failed to provide all of the agreed-upon data. Lack of this technical data not only prevents competition for future buys, it can also result in the establishment of multiple national stock numbers for the same item. Thus, unnecessarily duplicating the costs for managing these items.

In our audit of the management of technical data we further found that when the data was received it was not always well used. We had engineers look at 156 of our sample items currently noncompetitively purchased. These reviews disclosed 18 items, on which an estimated $8.6 million would be spent annually, that could be bought competitively using currently available data. The primary reason for the items being bought noncompetitively was a lack of stringent and timely breakout reviews by the program managers office. Items were coded early in their life to be bought noncompetitively, and these codes were not subsequently challenged. The codes were often assigned before technical data was received, and the items were still in the development stage and, at that point, the design was still subject to change. In those early years, there was sufficient reason to be buying unique parts from the original source. However, these items should have been marked for further review of their procurement method as these conditions changed.

On the other hand, we also found some very positive things in the use and management of technical data. Specifically, we did not see funds being spent for unneeded data. Also, we did not find that lack of proprietary data rights was a major problem on the items reviewed. Thus, we believe that the Department can substantially increase competitive procurement, without any changes in the laws or contract clauses that deal with data rights. Because we only looked at a relatively few high value items, we are not prepared to say categorically that the Government does not have any problems with rights to use technical data. My personal conversations with managers indicates that we do. They insist that procurement of a large number of the high value items has been impeded by data rights problems. Our finding does not mean that the Department should abandon efforts to limit proprietary rights to specified periods on future contracts or to seek removal of proprietary data restrictions for systems purchased decades ago. These are issues which S.2489 address.

Solutions to some of the conditions we found were already being used on individual systems. For example, one of the problems was in assuring that all data was received when a large mass of data was ordered. One solution to this problem was to defer acquisition data. Using this technique, data is only ordered from the system contractor on an individual item as it can be used. The Air Force was using this technique on the F-15 airframe with success.

Department of Defense management has responded favorably to the 16 recommendations in our report. We were advised that our recommendations for improved control over the receipt of data will be incorporated into the DoD Instruction on Management of Technical Data (DoDI 5010.12). The substance of the recommendations for better use of data to enhance competition was also incorporated into a new supplement to the Defense Acquisition Regulation (Supplement Number 6), dealing with the "breakout" of spare parts.

Another issue related to acquiring technical data is that of the proprietary rights claimed by contractors in the processes and procedures used to manufacture items sold to the Government. This is a difficult problem since each case is unique and there is little precedent which the Government can use to base its challenges to these claims. I believe that we in the Department of Defense should be more aggressive in challenging contractor claims of proprietary rights in technical data. The legislation being proposed would certainly attain that objective.

Another problem has been the reluctance of some supply and procurement officials to seek competition because it is deemed faster, easier, and safer for them to buy sole-source. Supply and procurement officials often feel comfortable when they buy the spares from the end item manufacturers. If a critical item fails, the end item manufacturer must be at fault. However, if a procurement official decided to obtain the part from some other contractor, his judgement may be questioned.

There are no easy solutions to these problems. We have to change attitudes and let both the responsible Government officials and the contractors know that it is no longer business as usual.

Most importantly, we must ensure that the corrective measures that have already been identified are institutionalized. Otherwise, based on past history, we are likely to see backsliding and the cycle repeat itself in five years or so. It is in this institutionalizing process where new well-thought-out legislation can be most effective.

Congress Attempts to Help Rectify Some of the Problems

I want to spend the balance of my time discussing S.2489 and other bills before the Small Business Committees, which attempt to address some of the issues our audits and what other internal DoD studies have raised.

I previously stated that most of the problems we have found are largely internal to the Department and, therefore, I believe that additional legislation would be of little value on these issues. I am referring to such matters as poor use of nomenclature, i.e., calling a screw driver an "alignment tool," and failure to force contractors to use standard items (those already in the supply system), placing far too many low quantity, small dollar transactions and operating with antiquated ADP support systems. On other matters new legislation could be helpful.

There have been a number of bills introduced in the House and Senate during this Congress for the purpose of creating a more favorable environment for small businesses to do business with the Federal Government, particularly in the area of spare and replenishment parts.

Two bills of note introduced in the House of Representatives were H.R. 2133 and H.R. 4209. In October of last year, I testified before the Subcommittee on General Oversight and the Economy of the House Committee on Small Business on the Bill H.R. 2133. That Bill and H.R. 4209 were subsequently amended and reported out by the House Committee on Small Business on November 12, and November 10, 1983, respectively. H.R. 2133 has been cleared by the Rules Committee for floor action in the House. To my knowledge, no further action has been taken on either of these bills.

These bills to a greater or lesser extent, attempt to regulate the practices and procedures used by Government contractors in efficiently, expeditiously and economically processing procurement actions. H.R. 2133 for instance covers a number of different procurement practices and deals in some detail with regulating the use of qualified bidders lists and qualified products lists. It also would require set-asides of certain contracts for competition by small business, increase the availability of technical data and related information to those companies desiring to bid on contracts by requiring the Office of Federal Procurement Policy to amend the Federal Acquisition Regulation, and would establish goals for awards of contracts to small businesses located in or near labor surplus areas.

The focus of H.R. 4209 is on the major procurement centers and the procurement practices followed at these centers. This Bill would require that the Small Business Administration assign a breakout procurement center representative at each major Federal procurement center. The breakout procurement center representative would be assisted by the small business technical advisors--these advisors would be assigned by each agency's Director of Small and Disadvantaged Business Utilization. It would be the purpose of the breakout procurement center representative to monitor procurement procedures and to recommend to the head of the procurement center procurement practices and procedures which would increase competition for spare and replacement parts.

The Bill S.2489 addresses obstacles to competition in a different way than H.R. 2133 while retaining the provisions for breakout procurement representatives similar to those contained in H.R. 4209. I understand that S.2489 is a successor Bill or replacement for S.1730. I find S.2489 to be a much better Bill than S.1730 or either of the House bills because of its heavy emphasis on "front-end" efforts to enhance competition. It requires that agencies plan for future competition for component spare and replacement parts during the development stages of a major weapon system and reflect these plans in initial and subsequent production contracts. Such planning would include: (1) identifying and determining in advance technical data which will be needed during the life of the components of the system, (2) making the contractor justify in advance any proprietary restrictions on data and (3) arranging to purchase legitimately restricted technical data.

Prequalification requirements would be automatically challenged so that they could be employed only in situations where a legitimate need is found by the contracting officer to exist. This finding and the reasons must be stated in writing by the contracting officer. The criteria for prequalifying must be provided to those businesses which request them, and conditions for obtaining prequalification specified. There is also a provision to encourage the Government to qualify contractors when the pool of prequalified contracts is limited to less than five.

The use of "qualified products lists" on the other hand serves an extremely important purpose. There are many parts and components of weapons, ships, and aircraft systems that are not only critical to the proper operation of these systems but also critical to the safety of their crews and operators. Maintaining a list of prequalified products is one way of assuring only acceptable items will be considered. Determining whether the parts or components offered as replacements or spares for this equipment meet the exacting criteria to be considered for placement on a list of qualified products requires evaluation by competent, knowledgeable and experienced personnel. We must not allow the "qualified products list" to become so all encompassing that it includes products which have no critical function in a major system. There is some evidence that this has happened in a limited number of instances.

Another potential abuse of the "qualified products list" is the manner in which a product is in fact "qualified." There are many instances when the manufacturer of the major system effectively acts as the sole determinator in qualifying suppliers who will in turn compete with that manufacturer. This situation occurs even though the Military Departments are charged with this responsibility and employs people whose job description, technical qualifications and pay are based on their ability to make such determinations. This type of conflicting interest cannot be allowed to continue.

Nor should suppliers of component parts of a major system be required to comply with the same extensive test and evaluation procedures when attempting to sell identical parts as spare or replacement parts. A manufacturer whose product has qualified to be included within a major system sold to the Government by a prime contractor should not have that product disqualified simply because the identical product is offered for sale directly to the Government as a replacement or spare part, or to requalify when the minor modification is made to a part already sold to the Government.

The Bill addresses technical data by mandating that the agencies develop an implementation plan to manage the technical data received under contracts for major systems. While we have identified problems in this area, I am not convinced that new legislation is required to address these problems.

Closely related to the issue of acquiring and managing technical data is the issue of whether or not certain technical data is rightfully the property of the contractor or is the Government entitled to use it freely to encourage competition for spare and replacement parts. The Bill would establish procedures whereby the Government could challenge a contractor's claim of proprietary rights in technical data, this challenge could be resolved and the contractor could be penalized for unjustifiable claims of proprietary rights. Clearly, legislation is needed in this area.

Finally, S.2489 would require that the Administrator of the Small Business Administration assign breakout procurement center representatives to each major procurement center and list the duties of these representatives. It would also be the responsibility of the agencies with major procurement centers to assign technical advisors to the major procurement centers to assist the breakout procurement center representative.

The other bill before the Committee is S.2434 which, like Section 7 of S.2489, would require the Administrator of the Small Business Administration to assign breakout procurement center representatives to major procurement centers and the agencies to assign technical advisors to assist the procurement center representatives. This Bill also provides for promotions and cash awards for those procurement center representatives achieving significant cost savings during any period.

Mr. Chairman, identifying the problems faced by small businesses wishing to participate in contracts for spare and replenishment parts is much less difficult than coming up with reasonable and manageable solutions which will not themselves result in excessive costs to the taxpayers and unacceptable delays in filling legitimate needs of the Department of Defense.

Both S.2489 and S.2434 address problems we have found to be associated with contracting for spare parts. Other witnesses will be better able to address questions of how these proposals will affect their current procedures and possible monetary and personnel impacts on their offices. On balance, I believe that S.2489 serves a need and, if properly administered, will prove to be a significant enhancement to our efforts to broaden the defense procurement base, increase competition, improve our efficiency and reduce costs. These views represent the opinions of the Office of the Inspector General, DoD, and not necessarily those of the Administration.

Mr. Chairman, that concludes my formal statement. I would be happy to answer any questions the Committee may have.

The **Chairman**. In drafting S. 2489, we sought to incorporate adequate flexibility by providing the agency contracting officer with the authority to waive the application of provisions when they were not needed. In your view, does S. 2489 establish the flexible system we are after?

Mr. **Vander Schaaf**. Yes, sir, that is one of the points I am trying to make here, that I think your bill has the advantage over some of the others I have read with respect to that flexibility.

The **Chairman**. The remainder of my questions I intend to submit for the record.

[Material follows:]

ANSWERS OF MR. VANDER SCHAAF TO QUESTIONS OF SENATOR WEICKER

Senator **Weicker**. In your statement, you summarized the findings of your audit report, "Management of Technical Data and Its Use in Competitive Procurement." Your review of 340 high-value and high-demand spare parts for six first-line weapons systems, including F-14, F-15 and A-10, with an annual buy value of half a billion dollars, found only 39 being procured competitively. You cite the lack of technical data as primary cause of this situation and note that many of the contracts lack adequate provisions relating to technical data.

S. 2489 requires that the production contract for a major system contain provisions fully defining the contractor's responsibilities concerning the delivery of technical data. Do you feel that S. 2489's requirements will help improve the situation your audits found?

Mr. **Vander Schaaf**. On balance, I believe that S. 2489 serves a need and, if properly administered, will prove to be a significant enhancement to our effort to broaden the Defense procurement base, increase competition, improve our efficiency and reduce costs.

In particular the Bill would establish procedures whereby the Government could challenge a contractor's claim of proprietary rights in technical data. This challenge could be resolved and the contractor could be penalized for unjustifiable claims of proprietary rights. Clearly, some legislation in this area is needed.

Senator **Weicker**. Your statement also noted that your auditors found that restrictive procurement codes, which required that spare parts be procured noncompetitively, were not being reviewed frequently enough. SBA feels that its breakout procurement center representatives (PCRs) can help in this effort.

Do you feel that the SBA breakout PCR's complement the efforts being made by the military services through their competition advocates?

Mr. **Vander Schaaf**. Yes, I believe that the SBA's breakout procurement center representatives can complement the efforts being made by the military services through their competition advocates. However, the final decision on breakout must continue to remain with the Defense buying activity taking the procurement action.

Senator **Weicker**. In your statement, you emphasize that prequalification requirements are needed for the procurement of critical items. We agree.

Do you find the provisions of S. 2489, which requires the agency to document the reason for the prequalification requirement, to specify the requirements to attain qualification, and to afford a contractor the opportunity to meet those standards, a workable system?

Mr. **Vander Schaaf**. We find no specific systems in the provisions of S. 2489 which dictate how the Department will document the reasons for the prequalification requirement but only guidelines to be followed. I considered the guidelines to be flexible enough and it is the Department's job to write a system to comply with the law. In my opinion a system can be designed and it can be made to be workable.

Senator **Weicker**. S. 2489 provides for the reimbursement of testing costs for a small business contractor who successfully attains qualification, when the number of "qualified sources" remains fewer than five. This is in contrast to other proposals which would provide for reimbursement without limitation.

Do you believe that the approach of S. 2489 will help expand both competition and the industrial base, without putting an "open-ended" drain on agency resources?

Mr. **Vander Schaaf**. The approach of S. 2489 will help expand competition, however, we believe that the Department should not reimburse the testing costs of a small business contractor who successfully attains qualification. This should be considered a cost of doing business to the small business contractor. I would like to discuss "qualified sources" in respect to two categories; "qualified products lists" and engineering source approval.

The use of "qualified products lists" (QPLs) serves an extremely important purpose. There are many parts and components of weapons, ships, and aircraft systems that are not only critical to the operation of the system, but also critical to the safety of their crews and operators. There are approximately 1,400 lists covering approximately 400,000 individual items. DoD conducted a survey of a sample of 100,000 items covered by QPLs and found that only 500 items were being procured sole source and small business vendors comprised a majority of the vendors having qualified products.

Other items are covered by requirements for engineering source approval which must be demonstrated by a offeror before his offer will be considered responsive. These lesser pre-qualification requirements (which many have lumped under the term "Qualified Bidders Lists") are not specified as to their use; each agency is free to use them on an "ad hoc" basis. A quick analysis of data available within the Pentagon showed 160,000 items requiring engineering source approval, of which only 19,000 are coded as being competitive. We do not believe that these prequalification restrictions are necessary. If the contractor can demonstrate that he has made the same item or a comparable item, he should be considered to be qualified to bid on the item. First article testing would then be performed to ensure the quality of the specific item in question.

If reimbursement of testing costs are to be provided, the number of qualified sources should be reduced to three, not the five specified in the proposal. We feel that three sources of supply are adequate to provide competition and the additional two sources may not significantly increase competition but could significantly increase the reimbursement of testing costs.

There should be a reasonable relationship of the cost of qualifying a number of different sources to the savings to be achieved. We could get into situations on small procurements where the cost of qualifying producers could be greater than the procurement costs or the savings to be made by qualifying the additional sources. Criteria should be established in the legislation to only require the qualifying of additional sources when certain dollar thresholds are exceeded. $25,000 could be a good figure, but, you should address this issue to the procurement community for their opinion.

SMALL BUSINESS ACT

In drafting S. 2489, we sought to incorporate adequate flexibility—provide an agency contracting officer with the authority to waive the application of provisions when they weren't needed.

Senator **Weicker**. In your view, does S. 2489 establish the flexibility system we were after?

Mr. **Vander Schaaf**. Yes, in my view, it does.

Answers of Mr. Vander Schaaf to Questions of Senator Dixon

Senator **Dixon**. Does the Government have a need for complete and accurate technical data if that can be made available, so that it will be able to complete certain requirements?

Mr. **Vander Schaaf**. In most cases the Government does have a need for complete and accurate technical data. Technical data is not always needed for commonly available items such as nuts and bolts and care should be taken in the legislation to ensure that technical data is only required for those items that need it to accomplish competitive procurement.

Senator **Dixon**. When the Government "pays" for the development of an item, in whole or in part, does the Government have rights to that item, and rights in the data necessary to develop and reproduce that item?

Mr. **Vander Schaaf**. In my opinion, when the Government pays for the development of an item, in whole or in part, the Government should have rights to that item and data rights necessary to develop and reproduce that item. However, these rights are not automatic and should be stipulated in the contract.

Senator **Dixon**. Does the Government have a legitimate right to require the delivery of technical data to back up a purchase when that item is not covered by claims of proprietary data?

Mr. **Vander Schaaf**. The contract establishes the form and type of technical data to be furnished. Technical data is an item for negotiation between the Government and the contractor except in situations such as that described in the previous question or where the data is already in the public domain.

Senator DIXON. Must the phrase "developed at private expense", have a single definition that is uniformly applied across all agencies, if possible?

Mr. VANDER SCHAAF. A single definition of the phrase would be desirable.

Senator DIXON. If a non-commercial item is not developed with Government funds, is it your view that any proprietary rights should rest solely with the private concern and be solely under the control of that private concern?

Mr. VANDER SCHAAF. In such situations, proprietary rights rest with the contractor. The Government should seek to buy such data and rights from the contractor when its deemed in the Government's best interests to do so.

Senator DIXON. Do you have an opinion about the recommendation of some that the proprietary data rights to a system sold to the Government become the property of the Government after a fixed period of time?

Mr. VANDER SCHAAF. I support this recommendation and believe that 7 years or so would be an appropriate time.

Senator DIXON. During the planning for a procurement, should the Government be able to know in advance the extent to which its purchase may be covered by a firm's claims of proprietary data that may inhibit competition on future reprocurements?

Mr. VANDER SCHAAF. During the planning for a procurement, the Government should be able to know in advance the extent to which its purchases may be covered by a contractors claims of proprietary data that may inhibit competition on future reprocurements. The Government needs to ensure this knowledge about proprietary data by writing into the contract what items will be provided with proprietary markings and which will not.

Senator DIXON. Should a contractor be given the opportunity to propose to the Government that the contractor will sell or license its proprietary data if it so chooses, and to provide an estimate of that cost to the Government for that sale or license?

Mr. VANDER SCHAAF. Except where the Government already has rights in the data based on, for example, funding of the item's development, a contractor who has proprietary rights is permitted to quote a price for sale or license of those rights to the Government.

Senator DIXON. If a system's functional performance will be the same as between a system where the Government could have the technical data necessary for reprocurement, and a system where it has no access to that data, shouldn't the Government have the opportunity to purchase the system where the data is offered?

Mr. VANDER SCHAAF. Yes, the Government already has the opportunity to purchase the system where the data is offered. I know of no examples where these two options were offered and the Government purchased the system where there was no access to the technical data.

Senator DIXON. Mr. Adams says on page 8 of his statement that it is not possible to tell whether proprietary data is accurate just by looking at it. Please explain the system the Government uses to challenge claims of proprietary data.

Mr. VANDER SCHAAF. I am not the person to explain the system the Government uses to challenge claims of proprietary data. The process can and does vary by buying command and Military Department. As I stated in my testimony, I believe that in general we in the Department of Defense should be more aggressive in challenging contractor claims of proprietary rights in technical data. This is difficult since each case is unique and there is little precedent which the Government can use to base its challenges to these claims. The legislation being proposed would certainly attain that objective. As part of the Department's initiatives to improve the procurement of spare parts, each of the Services have increased their scrutinty of contractors' claims of proprietary data when reviewing the Procurement Method Code assigned to spare parts.

Senator DIXON. Once a claim of proprietary data has been asserted, or a restricted Procurement Method Code assigned, is it periodically reviewed?

Mr. VANDER SCHAAF. In our audits of the management of technical data and the procurement of aircraft engine spare parts we found that items were generally assigned a restricted Procurement Method Code early in the procurement process and these codes were not subsequently challenged. In those early years, there may have been sufficient reason to be buying parts from the original source. However, these items should have been marked for future review of their procurement method as conditions changed.

As a result of the Secretary of Defense initiatives in July and August of 1983 on spare parts procurements, the Services have recognized the need to improve the procurement of spare parts at fair and reasonable prices. In addition, to implementing the initiatives outlined by the Secretary, the Services have initiated actions to enhance competition by improving their procurement methods. As part of these actions, each Service has started reviewing and challenging the Procurement Method Codes assigned to spare parts. The reviews should lead to increased competition.

Senator DIXON. Would you please elaborate on the functional differences between the qualified bidders list and the qualified products lists?

Mr. VANDER SCHAAF. A qualified products list identifies the specifications, manufacturer or distributor; the item by part or model number or trade name; the place of manufacturer and the test report involved. A manufacturer must qualify his product, prior to competing for a Government contract when a qualified products list exists. A qualified bidders list can be established by purchasing activities to increase access to adequate sources of supplies. All eligible and qualified suppliers whom the buying activity considers capable of filling the requirements of a particular procurement shall be placed on the appropriate bidders lists. Normally, only the producers on this list will receive a solicitation to bid on the procurement.

Senator DIXON. Has the qualified products list resulted in a limitation on competition for those specific items that are solicited from a qualified products list? Is it possible to reconcile the dual concerns of providing goods in a timely manner to meet the specific requirements of a solicitation while at the same time insuring that the product fully achieves the requirements set out by an agency, without foreclosing competition at the time of solicitation?

Mr. VANDER SCHAAF. Generally speaking, I would say that qualified products lists have resulted in a limitation on competition for those items solicited from a qualified products list. We have no audit basis to support this position but we are planning an audit of qualified products lists in FY 1985 to address this issue. The Deputy Assistant Under Secretary of Defense for Acquisition Management provided us information on qualified products lists (QPLs). There are approximately 1,400 lists covering approximately 400,000 individual items. DoD conducted a survey of a sample of 100,000 items covered by QPLs and found only 500 items were being procured sole source and small business vendors comprised a majority of the vendors having qualified products.

Senator DIXON. To the extent that a business has not pre-qualified its product, how can we meet the dual concerns of providing the goods in a timely manner to meet the agency's need, while at the same time insuring that the product fully achieves the requirements set out by that agency, without foreclosing competition?

Mr. VANDER SCHAAF. I believe that we can meet the dual concerns of providing the goods in a timely manner, while at the same time insuring that the product fully meets the requirement. This can be accomplished by appropriate use of preaward surveys and simple technical pre-qualification reviews to ensure the contractor has the capability to produce the item by having produced a similar or comparable item. More extensive use of first article testing in lieu of building special test articles will ensure that the product produced will fully achieve the requirements set out by the Department.

Senator DIXON. Could the government rely on private testing laboratories to evaluate the technical qualifications of a product when an agency is unable to perform a timely evaluation of the product's ability to meet the agency's need?

Mr. VANDER SCHAAF. Yes, the Government could rely on private testing laboratories to evaluate the technical qualifications of a product. This would be required only in an exceptional circumstance since we have our own capability to perform most of the required testing.

Senator DIXON. How do we balance protecting proprietary data so as to foster innovation and creativity, while at the same time insuring access to the technical data needed to make competition possible?

Mr. VANDER SCHAAF. The system as set forth in the Defense Acquisition Regulation and the Federal Acquisition Regulation basically strikes a good balance between Government and private interests and needs. At this stage, I think it necessary to devote more attention to insuring that the system is properly implemented by the agencies than it is to seek significant modifications or adjustments to it.

The CHAIRMAN. Senator Dixon.

Senator DIXON. I have no further questions at this time, Mr. Chairman.

The CHAIRMAN. Fine. Thank you very much.

Mr. VANDER SCHAAF. Thank you.

The CHAIRMAN. The next witness before the committee will be Mr. Richard Ludwig, president of the Lavelle Aircraft Co. of Newtown, PA.

I have not forgotten my friends at the GAO. You are up to bat next.

Mr. Ludwig, it is nice to have you before the committee, and do proceed.

STATEMENT OF RICHARD LUDWIG, PRESIDENT, LAVELLE AIRCRAFT CO., ON BEHALF OF THE NATIONAL FEDERATION OF INDEPENDENT BUSINESS, ACCOMPANIED BY SALLY L. DOUGLAS, ASSOCIATE DIRECTOR OF RESEARCH, NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Mr. LUDWIG. Thank you, Senator.

Thank you for the opportunity to testify on bills S. 2489 and S. 2434.

For the record, my name is Richard Ludwig. I am the president and owner of the Lavelle Aircraft Co., a small manufacturing company in Bucks County, PA.

Fully, 80 percent of our business is with the Government or with large companies known as prime manufacturers whose customer is the Government.

I am assisting Sally Douglas, who is the NFIB manager of research, and I say assisting her because she is the one that has been most helpful in getting me involved.

Let me establish a few credentials so you will have some information on my area of expertise I feel particularly comfortable in testifying on this bill because of my background. I have an engineering degree, and most of my experience was in aerospace engineering design—satellites, aircraft, and the like. I have an MBA. I was a quality control engineer for awhile. I have been a design engineering manager with the General Electric Co. in spacecraft design. I was a materials manager and a major subcontracts procurement manager for several years, and for the past 7 years I have been president of the small company known as Lavelle Aircraft Co. in Bucks County.

This is the second time I have testified before the committee. My earlier testimony on procurement regulations was given on November 15, 1983, before the Subcommittee on Government Regulation and Paperwork, and is in the record of the oversight hearing on the Paperwork Reduction Act of 1980 at page 84.

I recently had the opportunity to review Senate bills 2489 and 2434 and am gratified to note that several of the suggestions that I made in my earlier testimony have been included in these bills. Specifically, in S. 2489, page 5, the bill adds a requirement for the Commerce Business Daily advertisement to amplify by a brief description relating to the item's form, fit, or function, physical dimensions, predominant material of manufacture or similar information, a procurement history and forecast of requirements to the extent available, including the last date of award thereof, the number of units, unit price—and, as you can imagine, I strongly support these statements.

Next, I support the language regarding the prequalification and qualification on page 6, as well as the policy statements on page 7. But, perhaps, I ought to start at the beginning.

Under "Planning for Future Competition," I believe that the ideas and the goals stated are excellent. The best way to get a potential contractor to agree to provide information which will enhance competition at a later date is to make it part of the original competition. Usually in major programs the competitors are required to provide logistical data anyhow. That usually consists of spare parts, to which the required information could easily be added.

Under "Encouraging New Competitors To Broaden the Industrial Base", this goes to the heart of much of the frustration that we as small business people have with the Federal procurement system. The language here is crucial if any headway is to be made.

Under the present conditions, virtually anyone in an agency can make the decision to go "sole-source". It is frustrating when one believes that qualification to make a component is unnecessary, and yet, there is no way to combat the situation.

I will give you an example but I must say that I loved the examples that the first witness showed this morning because they go right to the point as well. Here is a component called a weld assembly. This is used on the F-4. It is purchased by Hill Air Force Base.

In order to compete for the manufacturing of this item, or even to get drawings the first time through, one had to be qualified. When I saw the advertisement in the Commerce Business Daily for a large number of weld assemblies—and that is all I knew about it—I became interested and requested the solicitation package. Later I received a notification that I could not have the package, I could not get the drawings, because I was not a qualified source.

I entered a formal protest. Later the agency saw fit to provide the bid package, and I was able to withdraw my protest. But it took the protest to get the bid package and to get the drawings.

The procurement history on this part over three prior buys was $120. That was 3 straight years, $120 apiece for quantities on the order of 400.

One more thing about this procurement was that——

Senator Dɪxᴏɴ. Let me interrupt you at that point.

Mr. Lᴜᴅᴡɪɢ. Sure.

Senator Dɪxᴏɴ. You heard the predecessor to you say that there ought to be a qualified bidders list, that that is important. What do you think about that?

Mr. Lᴜᴅᴡɪɢ. I think there ought to be a qualified bidders list, but you should not have companies qualified to make parts per se.

I am going to make a suggestion later—no, perhaps I should make it now. It is that the Government qualify a company to make a class of parts or a type of manufacture rather than trying to qualify that supplier to make an individual part. If we are in the sheet metal business, why should we have to be qualified to make a simple sheet metal part like this weld assembly. We make parts for the space shuttle; we make parts for the A-6 airplane, the Avenger; we make parts for the Defense System Communications Satellite. Why should we have to qualify ourselves to make simple parts? That is foolish. If we cannot prove that we can make a simple part without being qualified specifically for the part being bid, there is something wrong with the system.

Let me tell you how things work; we finally got the bid package for the weld assembler 1 day before the procurement was closed. I didn't have time to analyze the part, so after looking at the drawing for and knowing the price history was $120 per unit, I said to myself, "I am a little afraid of it because the company making it now is charging $120 apiece and he may know something about that part that I don't know." Therefore I bid $60.25 (exactly 50 percent). He bid $120.50, and without analyzing it, but just looking at it I decided to send Hill AFB a message.

It turned out that we were low bidder, not surprisingly. I started to tell you that this was set aside for small business. There was a small business qualified. McDonnell Douglas, the prime on the F-4, was also qualified, but since they were not a small business, they were not qualified. There was one source, the small business, so that I knew it was a sole source. There was nobody else on the qualified list. I knew the only qualified source was going to bid. I virtually knew his price because he had bid the same price three times in a row. I decided to bid exactly 50 percent.

Very interesting things happened. We were told we were low bidder. And then 4 or 5 weeks went by and I didn't hear anything about it. The total procurement for the weld assembly was about $14,000, so it really was not a big deal.

Next the agency came out with a request for a "best and final" offer. How many $14,000 contracts go out for "best and final"? Virtually none. Since I didn't understand the reason, I called the buyer and was told that's only a formality; don't worry about it. So we held our price and we lost the job by about $2 apiece. The previous qualified source came in with a slightly lower price; maybe it was $55 or $5 apiece lower.

Senator DIXON. In other words, the guy that bid $120 then bought it?

Mr. LUDWIG. Oh, yes; he got the job for $55.

Meanwhile, we made one of these in our shop.

Senator DIXON. What did it cost you?

Mr. LUDWIG. About $35. So when the part came up for bid again, we bid $45. This time we knew it was going to take us about $35 to make, so we bid $45, which would have provided a reasonable profit. But, this time again, we lost to our competitor. But this time I asked the question, that since the last time there was a "best-and-final" on the item, how come there was no "best and final" this time? I threatened to protest. The agency came out with "best-and-final offer request" and this time we won the job. I finally bid $38.50. [Laughter.]

It is very interesting how the price was driven down by competition, isn't it?

Senator DIXON. It sure is.

Mr. LUDWIG. I think it is a very interesting story. And I am not going to question any of the reasons, since I don't have any facts to say why this price came down the way it did. All I am saying is that competition certainly has proved to be beneficial to the Government. I have no problem in competing for parts like this. If we can't win on our own virtues, then we shouldn't win.

The savings on this part turned out to be about $36,000. I figure that the company which had it as sole source made $100,000 profit on that part over 3 years.

Senator DIXON. You don't have an extra copy of that part, do you?

Mr. LUDWIG. You can have this if you like. This is just a model that we made.

Senator DIXON. I have your testimony. I would like to have the part, too.

Mr. LUDWIG. Well, you won't have this testimony in the record. This I wrote up kind of in the last day or so. Oh, you are recording it? I am sorry. I beg your pardon. Yes; you do have it. Gee, you mean I am speaking for the record? [Laughter.]

Senator DIXON. What do you call this part?

Mr. LUDWIG. It is called a weld assembly.

Senator DIXON. What is it used in?

Mr. LUDWIG. It is used on the F-4, I don't know the exact use. So, getting back to the bill itself.

Senator DIXON. One more question. What is this material?

Mr. LUDWIG. I think it is 321 stainless steel. It is made by stamping it out with a steel rule die, forming the bends then welding in two little pieces of metal.

Senator DIXON. Let me pursue this just a moment further.

Mr. LUDWIG. Sure.

Senator DIXON. I exhibit some ignorance when I do this.

Mr. LUDWIG. That is all right.

Senator DIXON. I am a lawyer by trade and a Senator presently by the authority of the people in my State. I don't know much about this kind of stuff. But could any sheet metal company essentially do this kind of thing?

Mr. LUDWIG. Absolutely.

Senator DIXON. Anybody in the country that has any expertise?

Mr. LUDWIG. Any company with sheet metal capability can make that part. That is not——

Senator DIXON. For instance, I have friends in the sheet metal business in my hometown of Belleville, IL, a town of 40,000 people.

Mr. LUDWIG. Take it to them.

Senator DIXON. I have a good friend by the name of Elmer Conner, as a matter of fact, in that business. He could make that?

Mr. LUDWIG. I will show my ignorance: What State are you from?

Senator DIXON. I am from Illinois.

Mr. LUDWIG. Illinois, OK. There are lots of companies in Illinois who can make that part.

Senator DIXON. If I may just go a little farther, all of this qualified bidders list stuff, I can understand some of the reasoning behind those who suggest you have to have that. But there must be all kinds of people in the country that can make most of the stuff I looked at here today.

Mr. LUDWIG. Oh, absolutely.

Senator DIXON. Again, I ask these questions mostly out of ignorance, but we passed around this table, between Senator Boschwitz and the chairman and myself, six parts, my friends here tell me, and this becomes the seventh. I don't know much about this kind of thing, but it looks like the kind of stuff most small businesses in the country can make.

Mr. **Ludwig**. Let me be very cautious with you, or let me try to help you a little bit. Qualified bidders lists and being qualified to make a part are two different things. To be qualified to make a part or a component is different from getting yourself on a qualified bidders list, in my opinion.

Once you have made a part, you are qualified to make that part. But in general, you could be on a qualified bidders list for all sheet metal items. Now, when I say there are many companies that can make that part, there are. But, are they qualified to Mil-Q-9858 or Mil-I-45208, which are the quality control requirements that the Government places on suppliers? Do they have the financial capability to take on bigger jobs, not necessarily that one, but some others? There are other requirements.

Senator **Dixon**. There are some good reasons to ask some of those questions.

Mr. **Ludwig**. Absolutely.

Senator **Dixon**. This bill, of course, suggests that.

Mr. **Ludwig**. That is absolutely correct, and I think that is a strength of the bill. So there are some reasons for having qualified bidders lists, and there are some times when you must have a qualified manufacturer make a part. I think that falls more rightly into electronic components, for example, where the component has to do something other than just be there. So I think there are some reasons for qualified bidders lists.

Remember, I am in the sheet metal business. There are other businesses that have some interplay there, too.

But for the bill, I have two questions in this area. Question one relates to, the Government can waive or otherwise bear the cost of conducting the specified testing and evaluation. Will the agencies be given a budget to accomplish that task?

The reason I ask that is, we made a part for Hill Air Force Base, since Lavelle was not a qualified bidder for the part; we made one and took it to Hill AFB. They put it on the list of parts to qualify, but claimed they had no money to check the part. Therefore, it is going to sit until they do get the money, the time and the inclination to qualify the unit.

Incidentally, my competitor for that part was the same one that was the competitor for the "weld assembly." [Laughter.]

Senator **Dixon**. He is not going to like you.

Mr. **Ludwig**. He doesn't like me at all.

Senator **Dixon**. You're affecting the bottom line.

Mr. **Ludwig**. I am nasty that way.

Senator **Dixon**. I am afraid to ask this. One of my staff wants to know if he is in Illinois.

Mr. **Ludwig**. He is not in Illinois. [Laughter.]

The second question is, is it possible to add language making it possible to qualify a company for a type or class of procurement rather than for a specific product? I have written to Hill and asked them to come to look at my plant to see if they agree that we can do all the things that we say we can do, and to put us on a "qualified" list. I have not heard from them yet.

Senator **Dixon**. Counsel seems to think that is do able under the provisions of the bill now.

Mr. **Ludwig**. Well, OK. However, the bill does not specifically say that, and I think it could be an important step. It could be clarified.

Senator **Dixon**. We will take that into account, and if there is any reason to reexamine it, we will, I assure you.

Mr. **Ludwig**. It seems to me it would save everybody a lot of money.

Under Technical Data Management to Foster Future Competition, I find I can also recommend support of the language in this section. Under [10], I would suggest that an addition be made with regard to tools designed and fabricated for the specific purpose of manufacturing a covered component. Without the Government having the right to have the contractor use the tools, the subcontractor cannot be competitive with the prime supplier.

Here is a loophole, you see, that you can fall into. The Government can get all the technical data and everything requested, yet still not have competition because the prime contractor has control of the tooling. So there is no way for another company to come in and compete.

If that tooling belongs to the Government, the Government can give the low bidder the tooling permit making the part with the tools provided. Do you understand what I am saying? Commercial businesses do that all the time. The problem with it is—and it does cause a problem for the Government, that it may cause a problem for the Government, because of the rigidity required to keep the inventory on the tools. If you could write the law in such a way that the Government could abandon the tools with ease if they so choose, or not keep a rigid inventory of those tools, it would be very helpful. I think if you tried to keep a rigid inventory of the tools, it would be very expensive to the Government. So there is a positive and a negative there. But it certainly could help add to the competition.

Under validating proprietary data restrictions, while I believe the ideas and concepts are good, I am not an attorney and I don't feel qualified to comment on that particular section.

Finally, the breakout procurement center representatives, the concepts are good; the reasons are valid; and I believe the system required by the law will work. I have already seen some evidence that proves to me that the system is beginning to adjust. If people are dedicated to breaking out components from the prime manufacturers, I believe great things can be accomplished.

I would further recommend that the people given the breakout responsibility be made accessible to the small-business people like myself because, after all, we have a responsibility, too. If we want to bid on something, we had better know what is in the Commerce Business Daily and what is coming out for bid. We are in a position, then, to go back to these people and ask; "Did you ever look at this item to break it out?" You don't want to close off that avenue.

Again, on the subject of tooling, in the commercial marketplace, when the supplier bids a job, he bids the price of the part and seperately bids the nonrecurring cost—the price of the tooling. That is not permitted in bidding to the Government on breakout items or on any on small procurements. It is, by the primes, but not on the small components. We are not allowed to bid $500 for a part for 50 parts and then $10,000 worth of tooling. We have to take that $10,000 worth of tooling, add it together with the unit price, and then divide it by the total number of units.

Therefore, the Government always gets hit with a higher price, particularly where there is qualified source, because that qualified source already has the tooling. He knows he can go higher with his price because he has the tooling. The competitor has to come in and "eat" the tooling in order to compete.

Again I bring up the point of controlling the tooling inventory, which could be rather expensive, but if a way could be found so that the Government didn't have to inventory the tooling it would enhance competition.

Senator Dixon, you asked a question earlier of the first speaker, the first person to testify, how can you make it easier for companies to qualify?

On the weld assembly which you have in front of you, I asked for the bid package and was not able to get it until I protested. They said I had to be prequalified. I therefore asked for the drawings. I thought we could make a part to prequalify Lavelle.

They replied that they couldn't send the drawings because we were not on the qualified list. So here you have the catch-22 situation. I couldn't get prequalified because I couldn't get the drawings, and I couldn't get the drawings because I—you know, whatever.

Senator DIXON. That is sort of like not getting the job because you are not experienced and you cannot get experience until you get the job.

Mr. LUDWIG. Exactly.

So how you can make it easier? You can help us to help the small business get qualified by category. You can help by making drawings and specifications more available. And you can create a system whereby many eyes review the requirements that are coming out with an idea of opening up the competition.

The gentleman who testified earlier talked about how his three or four people were able to effect, I think he said $30-some million in savings, with just four people over 1 year, and that is fine. You, or I, or those four people can go out into the plant—and I am going to call the military facility "the plant"—and find ways to reduce costs. But wouldn't it be better if there was a system of incentives for everybody in the procurement function to be looking at this thing and saying, Let's take a look at getting competition or let's take a look at getting lower prices, which really is the name of the game.

There is a system for doing that. We use it in my company. I have a paper written on the subject. I would be glad to supply it if you would like it.

Senator DIXON. I would like a copy.

Mr. LUDWIG. All right, I will send you a copy. It is a cost-improvement program that we use, and it really brings everybody into the cost-reduction program. We have been able to be very effective over 3 years.

We do about $7.5 million of business a year. We have been able to effect about $1.3 million worth of savings over the past 3 years at the expense to the company of about $10,000 by putting in a cost-improvement program which brought all the eyes in the company to look at reducing costs. That is what I am suggesting to you.

Senator DIXON. Send a copy of that to me, Mr. Ludwig.

Mr. LUDWIG. I will be happy to.

[Material to be supplied follows:]

[The prepared statement and supplemental information of Mr. Ludwig follows:]

NFIB® National Federation
of Independent Business

The Guardian of Small Business

STATEMENT OF

RICHARD LUDWIG, PRESIDENT
LAVELLE AIRCRAFT COMPANY

FOR THE

NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Before: Senate Committee on Small Business
Subject: S. 2489 and S. 2434 (Procurement)
Date: April 6, 1984

Mr. Chairman, my name is Richard Ludwig, and I am President of the Lavelle Aircraft Company in Newtown, Pennsylvania. I am also a member of the National Federation of Independent Business (NFIB), an organization which represents 570,000 small and independently owned businesses across the nation. I am here today to represent the NFIB and testify to our strong support for S. 2434, to require the assignment of breakout procurement center representatives at major procurement centers, and for S. 2489, the Small Business Competition Enhancement Act of 1984.

NFIB asked me to represent them at this hearing because I am a small business owner and have personal experience regarding many of the problems small firms face in trying to do business with the Federal government. I employ 130 people and manufacture high

Federal Legislative Office
600 Maryland Avenue, S.W.
Washington, D.C. 20024
202/554-9000

quality precision parts and assemblies of sheet metal for the aerospace industry. A significant proportion of my business consists of products that end up being purchased by the government. However, very few contracts are won directly from the government. Wanting additional government work, we tried "doing it by the book." As time went by, it became obvious that there were major problems in trying to win contracts from the government. At one point, we were so frustrated we stopped requesting bid packages. You don't have to be in the procurement game very long to draw a very strong conclusion that frequently, unless an invitation for bid is specifically set aside for small business, small business is specifically excluded.

Consider the following problems encountered by small firms in attempting to bid on contracts:

-- competition bidding is often precluded because the agency will not supply drawings or other necessary data, even when the data are available.

-- the agency can control who is permitted to bid by delaying sending data packages until it is too late for the unwanted company to bid.

-- small quantities preclude anyone but a tooled source from bidding successfully. Quote packages can often be prepared for a small number of units even though the procuring agency knows additional units will soon be required.

-- under the Freedom of Information Act, prior procurement history of an item can be requested. Some agencies provide this information routinely, others try to establish road blocks. At least one agency charges for the data.

-- procurements are frequently restricted to previously qualified sources (often only one or two companies). If a company is not "qualified" and wants to become "qualified," it must fight the system to do so. The company must procure drawings--sometimes only the entry of a formal protest will dislodge the information--manufacture the part, and have the agency agree to test or check the item. If the company is bidding, the cost of inspecting and testing is added to the bid, so frequently the bid becomes non-competitive. Sometimes the tests themselves are arbitrary and the cost increased so these will not have to be performed. Even when the buyer wants the tests done, if the agency engineers are too busy or do not have funds, the qualification process is not accomplished.

-- frequently the government effectively permits, or even sets aside, a procurement for bids from small business, then excludes the small business by using restrictive notes.

- -- not enough information of a specific nature is included in many Commerce Business Daily notices on advertised procurements for firms to make an intelligent decision on whether to request bid packages.

- -- if a buyer chooses not to identify additional sources for an item, he/she can simply put a restrictive note in the CBD advertisement. There seems to be no supervisory control over the use of such notes, nor is there a consistent pattern from one buying agency to another. In our case this meant that while we made a part for the F4 for the Navy, we were not able to get the data package for the Air Force version of the part. Since there were some slight differences between the two parts, we were excluded from bidding on the Air Force part. After we initiated a formal "Protest," our bid was accepted. Even though we were low bidder, we were ruled "unqualified."

These are just some of the obstacles small businesses encounter when trying to participate in Federal procurement. NFIB is therefore particularly pleased to see the introduction of S. 2489, the Small Business Competition Enhancement Act of 1984. Mr. Chairman, you and Senator Dixon are to be commended for your initiative. If this bill is enacted, you will have performed a valuable service both to small businesses which contract with the

Federal government and to small firms which have wanted to but have been stymied by numerous procedural impediments.

S. 2489 is a practical, sensible approach to reform of the procurement system. Rather than superimposing requirements on the system--which is rather like treating the symptoms and ignoring the disease--S. 2489 builds requirements for competition within the system, starting with the procurement planning process. Many of the practices and procedures agencies have used to block small business participation are revised or eliminated by this bill. We are particularly pleased that many of the suggestions I made in my testimony last November before this Committee's Subcommittee on Government Regulation and Paperwork have been incorporated into S. 2489.

The bill establishes a series of procedural requirements for agencies to follow in the planning of future procurements covering the awarding of design and production contracts so as to promote competition in the procurements of "spare parts"; restricts the use of prequalification requirements to those situations the agency can justify, according to specified standards, and establishes requirements to expand the number of qualified sources or qualified products, thereby expanding the industrial base. Granting authority to provide assistance to small firms seeking qualification is a particularly attractive feature, provided that we ensure the availability of funds to render such assistance.

S. 2489 also contains provisions which will eliminate a major impediment to competitive procurements, that being the current difficulty in identifying the actual manufacturer of a component. Under S. 2489, not only is the prime contractor prohibited from limiting direct purchase of a component by the government from a subcontractor if that component had previously been furnished to the contractor without restriction; the contractor must also document the identity of the actual manufacturer of a component and maintain a list of subcontractors and supplies as well as all solicited sources. The government has an unrestricted right to this information. Without these provisions, successful breakouts for competitive procurements will be nearly impossible.

Requirements for timely notice of forthcoming procurements and sufficient information with which to make a sound business decision to bid or not to bid are also covered in this bill and should alleviate significant problems for small firms.

Access to technical data is another key feature of S. 2489 and a critical point in ensuring that new sources for products needed by the government have all the necessary tools with which to compete fairly and efficiently. Predetermination of the respective rights of the Government and the contractor or subcontractor regarding technical data deliverable under the contract is critical. While there are legitimate considerations regarding overburdening of agency contracting personnel and protecting proprietary rights of contractors, a proper, effective system of checks and balances must be established to ensure that agency personnel perform responsibly in contracting on a competitive, cost-effective basis. Similar checks and balances must be in operation to protect the legitimate data rights of the contractor without allowing price gouging or barriers erected against responsible competitors.

Lest we seem unduly harsh, let me say that proprietary data rights is a legitimate concern among business owners, particularly within the extremely innovative small business sector. If there are indeed legitimate proprietary interests to be protected, the contractor should easily be able to make the case. But too often proprietary rights have been a buzzword for abuse, and data which were developed at government expense have been lumped into a package with legitimate proprietary data and withheld. We therefore support the language in Section 5 of S. 2489, requiring contractors to justify, in advance of delivery, claims to data which will be delivered with restrictions on the government's rights, as well as the language which gives the government recourse against proprietary claims which the contractor cannot validate. We believe the contractor should not only be subject to liquidated damages if found to have improperly asserted proprietary rights; the contractor should also reimburse the government for the cost of technical evaluation and audit of the asserted limitation, as well as the government's fees and other expenses incurred in challenging the asserted limitation, if the certification is found not to be substantially justified, unless special circumstances would make such awards unjust.

Similarly, we support the language requiring the establishment of separate contract payment lines relating to the delivery of technical data under the contract and authorizing the withholding of payments for failure to make timely deliveries of acceptable data. Such withholding of payment is authorized in current regulations but rarely if ever implemented. Codification would strengthen the government's hand considerably in ensuring that complete, accurate data packages are delivered on a timely basis.

These are just a few of the items contained in S. 2489. Absence of mention of any other items does not indicate opposition. We merely highlight some of the reforms which are of particular interest. To reiterate, NFIB strongly supports S. 2489 and will work for its enactment.

We also support S. 2434, introduced by Senator Boschwitz and co-sponsored by Senators Andrews, Kennedy and Grassley. SBA and GAO reports indicate that Breakout Procurement Center Representatives already have contributed significant cost savings to the government in identifying spare parts contracts for competitive bidding. This pilot program merits expansion. S. 2434 and S. 2489 would require the assignment by SBA of a breakout PCR to each major procurement center as well as assignment by each agency's Director of Small and

Disadvantaged Business Utilization of four small business technical advisors to complement the PCR. In essence, a partnership is created between SBA and the procuring agencies to promote competition. Technical competence is ensured by the requirement that well qualified, technically trained persons familiar with the particular needs of the procuring agency are chosen to advise the PCR. At least one of these advisors must be an accredited engineer.

S. 2434 goes a step further in providing incentive to agency personnel to vigorously promote competitive procurements by authorizing salary increases or cash awards to PCRs whose efforts achieve significant cost savings. In some ways, we consider the use of such incentives an unfortunate but necessary step in ensuring the program operates as intended, and we are pleased to see some safeguards provided in the bill to prevent fraudulent or abusive use of this incentive.

LAVELLE AIRCRAFT COMPANY
Manufacturers of Airplane Parts

NEWTOWN, BUCKS COUNTY, PENNSYLVANIA 18940 (215) 968-3838
TWX 510-667-2255

April 10, 1984

The Honorable Alan J. Dixon
U. S. Senate
Washington, D.C. 20510

Dear Senator Dixon:

Enclosed you will find a copy of the Lavelle Aircraft Company "Cost Improvement Program" that I promised during my testimony on April 6th. To help you understand its usefulness, please consider the following:

For purposes of this discussion, I'll describe three classes of management; the first is poor management, the second adequate management and the third is excellent management. My definition of these is:

- Poor management - no recognition of problems.
- Adequate management - recognition of problems but attacks the problems one at a time.
- Excellent management - recognizes the problems and establishes a system which will solve not only the immediate problem, but also provides a system for solving additional problems of the same type.

To put this in context, the government procurement system has for many years been poor in the respect that the procurement problems were not recognized. These include problems now being addressed by the Small Business Committee.

I believe that the government is now in the second or "adequate management" role. That is, the problems have been recognized and are being attacked. A sign of this was on Friday when the first witness pointed out 6 items which he identified could be purchased for far less money than previously was possible. But, note that in his testimony he stated that finding these items depended on his personal experience which he defined as "small". He is no doubt excellent at his job and he, and perhaps others like him (limited in number as they may be), can find more items to cost reduce. However, would it not be better if a system could be established where all the buyers in the procurement function would be made party to the solution? This now brings us to the third class.

-

To obtain excellent management of the procurement function, one should put in a system whereby all the buyers would be trained and given incentives for reducing cost. Consider the Lavelle C.I. System as a possibility. I think someone said that there are over 50,000 buyers working for the government. Wouldn't it be wonderful if every one of those buyers was on the lookout for opportunities to reduce costs? I think that with the Lavelle Cost Improvement System it is possible to accomplish this!

If you'd care to discuss it further, I'd be happy to do so.

Thank you for your fine work in trying to get things under control. I thoroughly enjoyed meeting and talking to you on Friday.

Sincerely,

LAVELLE AIRCRAFT COMPANY

Richard Ludwig

Richard Ludwig
President

RL:lrc
Encl.

CC: Sally Douglas, NFIB

LAVELLE AIRCRAFT COMPANY

COST IMPROVEMENT

PROGRAM

Richard Ludwig, President
Lavelle Aircraft Company
Newtown, Pa. 18940
(215)968-3838

November, 1982

Christine Davis, Contract and
Cost Improvement Program Administrator

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We hear a great deal today about how productivity in the American factory is declining. It has been dropping for about the past 20 years. While ours has been dropping; the productivity of other industrialized nations, such as West Germany and Japan, has been increasing. Productivity growth is now almost universally recognized as a key, if not the key ingredient, for success in business. For the great bulk of the business community, increasing productivity involves considering cost benefit comparisons in deciding to make, or not to make, a change in the way things are done.

Since, in general, Japanese industry has been improving so drastically; American business people have been reviewing Japanese techniques to see what they can copy. One technique that came to light rather early was "Quality Circles". For their culture, environment and business situations; this technique makes sense and works well. Many published articles and consultant devised courses have been written about "Quality Circles". It's really the "in" thing to have Quality Circles. However, if you have the responsibility for putting in such a system, perhaps you wonder - "Can my American company and labor force effectively utilize this well advertised and inherently Japanese concept?" Experimental programs have showed mixed results. For some companies, there has been a degree of success, others have proved abject failures.

This paper discusses an unique method of cost cutting to obtain productivity and profit improvement. Certainly there is nothing new about the idea of cutting costs in order to improve profitability. It's one thing to be re-active, to embark on cost-cutting sprees because costs are going up or sales are down; but it's quite another to see cost-cutting as a constant ever present factor that could contribute to improvements in productivity.

Further, this method is an uniquely American alternative which has been used successfully in a large department of a large company - the Locomotive Products Department of the General Electric Company in Erie, Pa.; and is being used successfully by a small company - the Lavelle Aircraft Company of Newtown, Pa. It was called the "Value Improvement Program" (VIP) at General Electric and the "Cost Improvement Program" (CI) at the Lavelle Aircraft Company.

At G.E.'s Locomotive Products Department in 1973 alone, $21.5 million in savings were credited to the program during a period when sales were on the order of $200 million.

At Lavelle Aircraft Company in 1981, the first year of the program, $352,000 in cost improvements were generated against sales of about $5½ million. In the second year, $738,000 of cost improvements were credited to the program against about $6 million in sales. Figure 1 shows the record at the Lavelle Aircraft Company. These figures are rather impressive. It is likely, therefore, that the program is one that can be used by many businesses.

COST IMPROVEMENT RECORD

TEAM	FY 1981	FY 1982	FY 1983
1	$ 13,127	$ 17,112	$ 15,449
2	0	11,103	172,072
3	5,388	5,859	31,498
4	206,613	537,444	1,128
5	122,830	150,340	82,304
6	14,468	16,444	16,586
Total,	$ 362,426	$ 738,302	$ 319,037

FIGURE 1

The Cost Improvement program's function, as its name implies, is to reduce the cost of doing business thereby improving both productivity and profitability. It is obvious that no one person can see all the potential cost cutting techniques available. However, it was theorized that teams of knowledgable people dedicated, even part time, to the proposition that methods can be changed in order to reduce the cost of doing business will be effective, provided that they they are given a target and an incentive to meet that target. As a result of this basic thought, the General Manager of the Locomotive Products Department of G.E. initiated this program about 15 years ago.

Aside from reducing costs, the CI program has other worthwhile goals and side effects, including:

- Increasing the awareness of all employees to the importance of reducing costs for services and materials.
- Providing personal (and team) incentives to encourage each person to work toward reducing costs.
- Fostering teamwork between departments.
- Providing an outlet for recognition of ideas.
- Developing leadership potential in all employees.
- Creating a little competitive "fun" to an activity that can cause friction between management and other employees.
- Enhances communication.

The program requires that all management, supervisory, administrative, and exempt-salaried personnel be required to be a part of the CI program.

COST IMPROVEMENT BENEFITS

1. Increasing employee awareness of importance of reducing costs for services and materials.
2. Provide personal and team incentives to encourage each person to work
3. Fosters teamwork between
4. Provides outlet for recognition of ideas.
5. Develops leadership potential in employees.
6. Creates competitive enjoyment to activity which could cause friction.
7. Enhances communication.

FIGURE 2

At Lavelle Aircraft Company, a small company, each year a Staff Manager is assigned to manage the program. In a large company, it can be a high level manager or a lower level manager with enough authority and drive to administrate the program. His function is to help establish budgets, select awards, maintain records of individual projects, provide publicity and encourage efforts.

To establish the targets for 1982 at Lavelle, we divided the "Cost of Sales for 1981" by the "Sales for 1981" (from the 1981 Financial Statement) and multiplied that ratio by the budgeted sales for 1982. That number was divided by 6 (for 6 award periods of 2 months duration) and by 6 again (for the 6 teams), as shown in Figure 3.

ESTABLISHING TARGET FOR PERIOD

		1981	1982
Sales for prior period	= S_{pp}	6,393,000	
Cost of sales for same period	= CS_{pp}	5,267,000	X
Sales for target period	= T_p		7,000,000
Cost of sales for target period	= CS_{tp}		

$$CS_{tp} = \frac{CS_{pp}}{S_{pp}} (T_p)$$

Example

$$CS_{tp} = \frac{5,267,000}{6,393,000} \times 7,000,000 = 5,767,000$$

10% of CS_{tp} = 576,700/6 teams ÷ 6 periods = 16,019.
(say $16,000/period)

FIGURE 3

Other staff or high level managers are assigned two or more teams each and for purposes of this program alone are required to report to the C.I. Program Manager. Their function is to encourage their teams to submit C.I. projects, answer questions, monitor the meetings, suggest methods for incorporating the projects, and act as an Advisory Board to the C.I. Program Manager.

At Lavelle, every employee who is not eligible for the Suggestion Program is assigned to a C.I. Team; usually 5 or 6 employees constitute a team. People are assigned to teams in a manner that assures cross functional responsibilities. Meetings are held approximately two times each month on company time. At the first meeting each year, the teams vote to select a Captain and a Secretary. It is the Captain's function to call the meetings, arrange for the meeting room, make sure that everyone attends meetings, encourage participation, work to break bottlenecks in project implementation, interface with Finance to assure early evaluation of projects and to approve team members for awards. The Secretary is expected to keep minutes of each meeting, record projects, submit them to reserve the project for his team, and act for the Captain in his/her absence.

One of the big questions is - "What is a Cost Improvement". There are few guidelines. It is any idea or suggestion that reduces cost and is actually caused to be placed in operation by the contributor. It differs from a suggestion in that suggestions need not be implemented by the suggester to gain awards for the suggester; a C.I. does. A C.I. project is an idea conceived by a team member, registered and reserved for the team, granted preliminary approval by the Team's Staff Manager or C.I. Program Manager, implemented through the efforts of the team, evaluated by Finance for actual savings and finally approved by the C.I. Program Manager.

The CI project may be based on a suggestion from a non-exempt employee, if there is work necessary for the implementation of the suggestion by the team. CI's may be shared to any percentage agreeable between teams on the request of the team who first registers the project. It may be to the registering team's advantage to share an award to enhance the implementation of the project.

CI projects are ideas which change methods or techniques for operations or administration. In short, anything that reduces costs (some examples are given in Figure 4). The idea need not be new. If, for example, a method is being used on one program but not on a second and it can be applied to the second to reduce costs; that change, when effected is a valid CI. However, the fact that a method or technique has been changed on an earlier program - with or without a CI award, does not give the first team rights to subsequent projects.

After a project is identified, it is written up on a CI form (Figure 5), approved by the Team Captain, and submitted to the Program Administrator for recording. When implemented, the form is submitted for approval to the CI Board, then to Finance where the final valuation is completed.

Awards are granted on the basis of a team beating its budget by 25% in a period. Normally an award period lasts two months. If the team beats its budget, each member of that team is eligible for an award. There is a possible exception. The Captain of a team may decide to withhold an award from any member of his team who, in his opinion, is not contributing to the team's success. Special awards for beating the team's budget 3 periods in a row or for other reasons may be established by the CI Program Manager. The value of the awards can depend on the size and financial capability of the company. At the Locomotive Products Department, the awards ranged from dinner on-the-town, about $25.00 per winner, to elaborate dinners, trips, tickets to sporting events, $100 cash awards, etc. At Lavelle, the awards have been $25 to $50 gift certificates, though better awards are contemplated.

As stated earlier, this is an uniquely American program in that it provides incentives and requires teamwork.

EXAMPLES OF COST IMPROVEMENT PROJECTS

1.	New source for procuring support rings.	$ 324,000
2.	New source for procuring flange rings.	144,760
3.	Change in source for group insurance.	70,315
4.	Use expanding in place of spinning.	44,753
5.	Change raw material sheet size.	24,361
6.	Change method of fabrication for rings.	22,231
7.	Use of material declared surplus.	17,100
8.	Change raw material sheet size.	13,994
9.	Eliminate cutting operation on "Do-All" Saw.	8,543
10.	Change raw material sheet size.	7,317
11.	Replacement of copier machine.	6,800
12.	Design new heat treatment fixture.	6,200
13.	Change method of shipment.	6,200
14.	Form cylinders on brake instead of rolls.	5,900

FIGURE 4

[illegible]

PROJECT NUMBER: ____________________ DATE: ____________

TEAM: ____________

____

____

DESCRIPTION:

____

____

____

____

____

COST IMPROVEMENT ANTICIPATED IMPLEMENTATION DATE: ____________________

COST IMPROVEMENT ACTUAL IMPLEMENTATION DATE: ____________________

DESCRIPTION OF SAVINGS:

____

____

____

____

____

COST OF IMPLEMENTATION: ____________________

SUBMITTED BY:	% OF SHARE
Name: ______________________________	__________
Name: ______________________________	__________
Name: ______________________________	__________
Name: ______________________________	__________

APPROVED: ______________________________

REJECTED: ______________________________ AMOUNT APPROVED: ____________________

FIGURE 5

PROBLEMS AND PITFALLS

As with any program to motivate people, there are problems and pitfalls which must be considered. In both the General Electric and Lavelle Aircraft Company experiences, these problems and pitfalls can be classified as:

1. Insufficient leadership attention (I don't have time).
2. Team members lack of support (no time to attend).
3. Optimum team size.
4. Personnel assignment and reassignment to teams.
5. Reporting status.
6. Teams not sharing ideas.
7. Some leaders and team members spend too much time - work suffers.
8. Team members who do not contribute share in incentives.
9. Too little attention to minutes.
10. Managers question use of incentive awards for people doing their jobs.
11. Waiting for someone to do something with their project.

In both experiences with the program; these problems, pitfalls and questions manifested themselves early in the program. However, as the program continued; most of them became rather minor.

Leadership attention, of course, is the most important element. The top man at the plant must establish the program, push for the implementation, monitor results, provide the incentives and provide visibility for those making significant contributions.

Without the impact of the top person, the program will not succeed. He must force the management team to work the project and must not allow statements like "I don't have time". His most useful argument is usually -

"If I have time so does everyone else", and "Remember it only takes an hour or two every two weeks". After the program begins to show results, this argument or problem will go away.

On the question of team size and personnel assignments, there may be some discussion. The optimum team size may vary from company to company. However, it is recommended that teams not be constituted of less than 5, nor more than 10 people. The size of the total group being divided into teams will have some bearing on the situation. If there are 30 people, as at Lavelle, there could be 6 teams of 5 or 5 teams of 6. At General Electric's Locomotive Department, we used teams of up to 8 people successfully. An attempt should be made to keep the size of the teams even and to spread the people by function so that each team has at least one person from a function which can get substantial projects; e.g., Purchasing, Planning, Engineering. As the program moves from the first to the second year and the second to the third year, it will become apparent that there is one or two teams which do better than the others. This may be a signal to reassign members from successful teams to those less successful in order to get cross fertilization and pressure on non-performers. On the other hand, those being reassigned from successful teams may be a bit unhappy because they will not be so likely to get incentive awards. This has been handled by explaining to those people reassigned the reason for making the new assignment.

Status reporting (Figure 7) is important because it provides continuity and a record which can be monitored by both the Team Captain and Management. Good reports keep projects from falling through the cracks.

PROBLEMS AND PITFALLS

1. Insufficient leadership attention. (I don't have time.)
2. Why are teams the size they are?
3. Re-assignment from one team to another.
4. Status reporting.
5. Team members claim they do not have time to attend.
6. Teams do not share ideas.
7. Some leaders and team members spend too much time and work suffers.
8. Allowing team members who do nothing to win prizes.
9. Too little attention to minutes.
10. Why should company give team members awards for doing their jobs? - question asked by Management.
11. Employees wait for someone to do something with project.

FIGURE 6

COST IMPROVEMENT MEETING - TEAM #5

September 17, 1982

CHAIRED BY: W. McEACHERN

ATTENDEES: C. B. HANEY P. MALENFANT M. BLIEM
H. BOOKMAN C. DAVIS F. DEMPSTER

PROJECT - 1981

5-81-8 Purchase/lease new copier, McEachern. This project has been reactivated because we have been advised that a demonstration copier is being installed for evaluation.

PROJECTS - 1982

5-82-1 1716/1789 nuts, P. Malenfant. This project is waiting release of P.O.

5-82-10 Revise shop forms, W. McEachern. The forms have been released and are being used on a number of jobs. The basic changes have been received with minimal problems, so we plan to complete the final analysis in the next few weeks.

5-82-18 Procure advance design drill grinder, F. Dempster. There is a low cost drill grinder being offered with claims that it can generate helical points. This is an improvement over the way we sharpen drills.

5-82-15 Our hospital insurance carrier was asked to correct the effective date of a rate increase. This will save our company $1,572.38.

POTENTIAL PROJECTS

J-1716/1789 parts No. 1128P41508-118-17, P. Malenfant. A new quote request has been sent out. No replies to date. P. Malenfant to expedite.

Should material used for sub-contract work be supplied by vendor or LACO? P. Malenfant proposed that, under certain conditions, there may be savings. He will try and isolate such items.

Procure a medium size turret lathe? There appears to be some potential in such a project. Informal discussion between the captain of Team #2, Jim Harbin and our captain suggests it would be to the mutual advantage of both teams to work together on such a project.

TEAM STATUS

The following projects have received verbal/unofficial approval. They have an estimated value of $21,680.00, which would satisfy our August/September quota. A cooperative effort is being made by H. Bookman, Chris Davis and W. McEachern to remove any obstacles that are delaying official approval. These projects are:-

FIGURE 7

5-82-12	J-1716/1789, Pin #1128PM41503
5-82-13	J-1935, drill jig DJ-12, Sugg. 82-124
5-82-14	J-1716/1789, drain fitting #1128P41508-15
5-82-16	J-1800, ring #JX250-30-30-3
5-82-17	J-1935, aft plug skin #D51P41101-43-1, Sugg. 82-8

Our next meeting is scheduled for Friday, October 1st, at 10:15 a.m. in the conference room.

cc: R. Ludwig
H. Platon
H. Bookman

FIGURE 7

In addition to reducing costs, this program develops the teamwork concept in a company. People on the same team, though they work in different disciplines, learn to work together. The team concept, however, sets up competition between the teams. The teams become competitive on identifying projects, meeting goals, etc. To balance this, the teams are permitted to share awards on a percentage basis as decided by Team Captains. If a special person on another team is required to get a project approved - say an Engineer to design a tool - he may negotiate for a percentage of the credit.

Possibly of concern to management is that some people may neglect their normal responsibilities to win the incentive award. It is, of course, possible. However, the experience to date is that of over 400 people in this project (at both G.E. and Lavelle) only one person was identified as having this tendency, and he was straightened out quickly by his manager.

One of the Team Captain's responsibilities is to make sure that everyone contributes. He can do this in several ways. As leader of the team, he can try persuasion; e.g., "... how can you accept the incentive awards without even helping". If that doesn't work, he can appeal to the person's manager who can talk to or put negative comments in the "Review" of the non-contributor. Finally, he can refuse to approve the non-performer for an incentive award. By the way, the Team Captain is in the position of demonstrating to Management his ability to manage.

Finally, and unexpectedly, some Managers resisted the program because they believed we were giving incentives to people for merely doing their job. I'm not sure we've convinced them yet, but the results have softened their criticism.

LAVELLE AIRCRAFT COMPANY OPERATING POLICY	Number 5.9 Page 1 of 3
ITLE COST IMPROVEMENT PROGRAM	Effective Date August 1980

1. SCOPE:

The purpose of this program is to identify projects which will reduce the cost of doing business and make the Lavelle Aircraft Company more efficient and profitable.

2. DEFINITION:

CI - Cost Improvement. A cost improvement project is an idea for reducing for the Company a cost of operation which has been defined and recorded, worked on and brought to fruition by a team of personnel, and which has been approved by the financial organization.

Team- All management, supervisory and administrative personnel except the President and his staff; that is, all persons who do not punch time cards, will be assigned to teams. Such teams will consist of approximately 5 persons.

Contest Period - Two months minimum, or other special period defined by the CI Program Manager. The Program Manager has the authority to designate contest periods.

3. PROCEDURE:

At the beginning of each year the President will assign each eligible employee to a team, one of his staff members as CI Program Manager and other members as Management Coordinators. The President and the CI Program Manager will establish a budget for the year which will be divided by the number of teams and the resultant figure used as the team budget for the year. Each team will meet for approximately one hour (on company time) every two weeks. The first meeting will be called by the Management Coordinator at which meeting the team members will elect one of their members as Team Captain and may elect one as Recording Secretary.

Subsequent meetings will be arranged and chaired by the team captain for the purpose of generating and recording ideas for reducing costs, discussing methods for implementation of ideas, assigning responsibility for tasks, obtaining help from other team members, reporting status and problems and for finalizing CI reports.

Members will submit ideas in writing, on the attached form, to the team captain who will in turn submit it to the CI Program Manager. These will be controlled by date. In the case where more than one team submits a CI report for approval on the same item, the earlier project report will be honored. When a project

thor Richard Ludwig	Approved Richard Ludwig
Date for Review July 1983	

LAVELLE AIRCRAFT COMPANY OPERATING POLICY

Number 5.9

Page 2 of 3

TITLE COST IMPROVEMENT PROGRAM

Effective Date August 1980

3. PROCEDURE (continued)

is implemented, the attached form shall be completed and submitted to the CI Program Manager's secretary. The secretary will record the input and transmit a copy to Finance for evaluation and approval. Cost improvements will be credited to the team as a whole.

If a team beats its budget by 25% for a contest period each member of that team shall be given an incentive award.

Each team captain or recording secretary should keep an activity log and a set of minutes. These minutes shall be forwarded to the Management Coordinator at the end of the meeting and the management coordinator should send a copy to the CI Project Manager. The CI Project Manager shall issue a monthly status report for each team.

4. SPECIAL RULES:

In order to provide for uniform evaluation of CI projects the folowing rules shall apply:

1. Direct labor savings shall be based on the current average labor rate for the labor category involved.
2. Finance shall verify the labor hours saved.
3. Only variable overhead (out of pocket cost) shall be added to direct labor savings.
4. Indirect labor savings shall be based on the current average rate for the position involved plus the cost of fringe benefits.
5. Savings for CI value shall be based on a 12 month period.
6. Total savings credited for a CI shall be reduced by the cost of implementation. Net savings shall be credited.
7. Supervisors may claim credit for their team for any suggestions turned in by their people which have been approved and adopted, provided their team has the earliest recorded CI report.
8. CI credit will be credited in the contest period during which Finance approves the savings.

Author Richard Ludwig

Approved Richard Ludwig

Date for Review July 1983

Number 5.9

LAVELLE AIRCRAFT COMPANY OPERATING POLICY

Page 3 of 3

TITLE	COST IMPROVEMENT PROGRAM	Effective Date	August 1980

9. Cost Improvement Awards will be given to those teams meeting 125% of their budgeted value in any contest period. Total value above the 125% may not be carried into another contest period. Each period must stand on its own merits.

10. Meetings may be held at any time during the day in any convenient locations.

5. INFORMATION FOR THE CI PROGRAM FOR 1982

1. The teams for 1982 are constituted as follows:

Team 1 (Spitz)
E. Long (Captain)
W. Sultzer
J. Brown
E. Clayton
D. Moore

Team 2 (Rose)
J. Harbin (Captain)
H. Rosenthal
K. McGonigal
P. DeCredico
S. Moore
R. Milnor

Team 3 (Spitz)
J. Davis (Captain)
W. Edwards
H. Morton
K. Brown
J. McCarthy

Team 4 (Bookman)
B. McGonigal (Captain)
A. Abramsky
J. Post
A. Patrick
P. Krotowski
J. Gallagher

Team 5 (Bookman)
W. McEachern(Captain)
F. Dempster
P. Malenfant
M. Bliem
C. Davis
C.B. Haney

Team 6 (Rose)
E. Storms (Captain)
W. Gillman
E. Bentz
J. Burgess
J. Bouldin
M. Sullivan

2. Var. overhead for 1982 is 80.0%, fringe benefits for [illegible]82 are 37%.

3. Corporate budget is $576,000, team budgets are $96,000/year, $16,000 in a two-month period. To be eligible for an award with a two-month contest period, the team must get $20,000 savings in the two-month contest period.

Author	Richard Ludwig	Approved	Richard Ludwig
Date for Review	July 1983		

Senator **Dixon**. Let me thank you for your testimony. Would you have any objection to the copy of the research that you have done on this question that you are going to send to me being placed in the record of the committee?

Mr. **Ludwig**. Not at all.

Senator **Dixon**. Well, thank you, Mr. Ludwig. You have been very, very helpful to us, and we appreciate it. We appreciate your help very much. Thank you for that document that you are going to send me. We are going to put it in the record.

Mr. **Ludwig**. I will be happy to do it.

Senator **Dixon**. I am going to carry your part around the country with me. [Laughter.]

Mr. **Ludwig**. Carefully.

[Subsequent information was received and follows:]

LAVELLE AIRCRAFT COMPANY
Manufacturers of Airplane Parts
Lavelle
NEWTOWN, BUCKS COUNTY, PENNSYLVANIA 18940 (215) 968-3838
TWX 510-667-2255

April 16, 1984

Lowell P. Weicker, Jr., Chairman
Senate Small Business Committee
428A Russell Senate Office Building
Washington, D.C. 20510

Gentlemen:

In response to a list of four questions received after my testimony on Friday, April 6th, I offer the following:

Question 1 - Regarding the government's right to ensure that its purchases are of a quality product that meets its needs. Further, the question goes on - Is the government able to properly analyze a product with the time frames set out by a particular requirement if it does not resort to a qualified products list? Does the qualified products list assure the government that it will obtain a qualified product?

The government has every right, like any customer, to do what it can to ensure that it will get a quality product for its money. This can be accomplished by buying from firms with good reputations, firms which have supplied acceptable identical or similar items in the past or who have otherwise proved their capability. Once an order is placed, the government has the right, and should inspect and/or test the purchased component to ensure that it meets the specified criteria. However, none of this should imply that the government must purchase only from a firm which manufactured the identical item before. No commercial entity conscious of cost would allow itself to be limited like that.

The question becomes simply, how can the government assure itself that the potential supplier has a reasonable chance to manufacture a quality product? By doing what commercial entities do - visit the potential supplier with its own competent experts to evaluate the potential supplier and approve him for a specific class of work. Rate the supplier on his actual performance (both delivery and quality) on jobs accomplished for the government.

There is no guarantee that a supplier who has made a part before, even one who is "qualified", will make a good part in the future. Even experienced personnel make mistakes.

CUSTOM SHEET METAL FABRICATIONS FOR THE MILITARY AND COMMERCIAL CUSTOMER

Question 2 - Regarding problems getting technical data. This is one of the most frustrating elements in trying to do business with the government. I have enclosed several pieces of correspondence (a very small sample) regarding this matter for your perusal. Frequently buyers do not know that PL95-507 makes it mandatory for them to supply data packages when requested by a small business. You will note that frequently they state that they do not have data packages or that the "supply is exhausted". A great deal of my time is used in trying to get data and frequently I can't take the time to do so, so I just pass up an opportunity. One could make a career out of this.

Question 3 - Most of the time when technical data is supplied it is adequate. That is not to say that there are no problems. No person, commercial or governmental agency is perfect, so some problems must be anticipated. I must say that when problems do occur, the agency procurement personnel do try to correct them. As for the clause mentioned, we've never had a problem with it and I don't believe it would hold up if tested.

Question 4 - My suggestions are now in the record. I'm gratified to note that several of my suggestions have been incorporated into the Bills under discussion.

Very truly yours,

LAVELLE AIRCRAFT COMPANY

Richard Ludwig

Richard Ludwig
President

RL:lrc
Encl.

CC: Sally L. Douglas
Asst. Dir. of Research - NFIB

LAVELLE AIRCRAFT COMPANY
Manufacturers of Airplane Parts

NEWTOWN, BUCKS COUNTY, PENNSYLVANIA 18940 (215) 968-3838
TWX 510 667-2255

March 9, 1984

Sacramento ALC/PM
McClellan AFB, CA 95652

Attention: Mr. Wettlin, PMWFB/4KX, Buyer

Subject: FD-2040-84-53979D - Duct Assy.

Gentlemen:

On February 14th we requested the above solicitation identifying ourselves as a Small Business. We received the package on 3/7/84 but the package did not include drawings. Under PL95-507 it is required and I believe the Law states that it is "mandatory" for the procuring agency to supply a complete package including specifications and drawings. In addition, we have a recent GAO decision which affirms that the agency is required to provide a full package.

Since we are now in a position of not having received the drawings and the date of closing is March 28th, we must respectfully request that drawings and specifications be forwarded and the closing date be extended to permit us to provide you with a quotation.

Sincerely,

LAVELLE AIRCRAFT COMPANY

Richard Ludwig
President

RL:lrc

LAVELLE AIRCRAFT COMPANY
Manufacturers of Airplane Parts
NEWTOWN, BUCKS COUNTY, PENNSYLVANIA 18940 (215) 968-3838
TWX 510-667-2255

December 5, 1983

Department of the Air Force
Directorate of Contracting & Mfg.
Ogden Air Logistics Center/PM
Hill AFB, UT 84056

Attention: Manager of Procurement

Gentlemen:

On 12/5 we received data packages FD-2020-84-60750, F42600-84-R-4133 and F42600-84-R-4093. We had requested these packages on 11/11, 11/18 and 11/18 respectively and they are mentioned in a formal protest letter mailed on 12/2.

Neither the 60750 nor the 4093 packages included drawings. The 60750 closing date was 12/2; the 4133 closing date is 12/9 and the 4093 closing date is 12/13.

As a result of your actions, Lavelle Aircraft Company has been excluded from competing for any of these projects.

It is therefore respectfully suggested that Hill's procedures be reviewed, evaluated and modified so that we and other companies like us can offer the competition the government so desires.

Sincerely,

LAVELLE AIRCRAFT COMPANY

RL:lrc

Richard Ludwig
President

CC: Advocacy Council
Small Business Office
Warren Allred, Esq.

LAVELLE AIRCRAFT COMPANY
Manufacturers of Airplane Parts

NEWTOWN, BUCKS COUNTY, PENNSYLVANIA 18940 (215) 968-3838
TWX 510-667-2255

March 23, 1984

U. S. Navy
Aviation Supply Office
700 Robbins Avenue
Philadelphia, Pa. 19111

Attention: Beverly Lichter, PDM7-15

Subject: Request No. 84X-3734

Dear Ms. Lichter:

I received the above solicitation but am unable to evaluate whether we can bid because we did not receive drawings. Since Public Law 95-507 makes it mandatory for Government agencies to supply bid packages and all specifications, and this has not been done; we request that you at least try to have the drawings sent to us.

You may have some interest in my paper on "Doing Business with the Government" which was the basis of testimony given to the U. S. House and Senate.

If you care to discuss any of the points raised, please feel free to call.

Sincerely,

LAVELLE AIRCRAFT COMPANY

Richard Ludwig
President

RL:lrc
Encl.

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS SAN ANTONIO AIR LOGISTICS CENTER (AFLC)
KELLY AIR FORCE BASE, TEXAS 78241

REPLY TO ATTN OF: PMXO (PMXOB/AC 512/925-7355)

SUBJECT: Request for Solicitation Package

LAVELLE AIRCRAFT COMPANY
STATE STREET AT STERLING
NEWTOWN (BUCKS COUNTY) PA 18940

1. Due to the unexpected demand for solicitation R-7361, closing on 4/2/84, the supply of the solicitation package has been exhausted and we are unable to honor your request.

2. The number of the initial solicitation packages prepared depends upon the anticipated demand for the item and money costs of preparing the aperture cards (drawings) if applicable.

3. Copies of all solicitation packages are maintained by the Regional DCASR Offices. If you are located near one of the offices, you may review the solicitation package and submit a letter bid if you so desire.

4. Thank you for your interest in the item solicited. We will endeavor to support all your future requests.

JO ANN DANIELS
Chief, Operations Support Branch
Dir., Contracting & Manufacturing

RECEIVED
MAR 22 1984

PMX FL-284 Requested 3/8 JAN 83

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS SAN ANTONIO AIR LOGISTICS CENTER (AFLC)
KELLY AIR FORCE BASE, TEXAS 78241

REPLY TO ATTN OF: PMXO (PMXOB/AC 512/925-7355)

SUBJECT: Request for Solicitation Package

TO: Lavelle Aircraft Company

1. Due to the unexpected demand for solicitation 02310, closing on 28 Feb 84, the supply of the solicitation package has been exhausted and we are unable to honor your request.

2. The number of the initial solicitation packages prepared depends upon the anticipated demand for the item and money costs of preparing the aperture cards (drawings) if applicable.

3. Copies of all solicitation packages are maintained by the Regional DCASR Offices. If you are located near one of the offices, you may review the solicitation package and submit a letter bid if you so desire.

4. Thank you for your interest in the item solicited. We will endeavor to support all your future requests.

Jo Ann Daniels
JO ANN DANIELS
Chief, Operations Support Branch
Dir., Contracting & Manufacturing

Responded 1/23

RECEIVED
FEB 13 1984
Lavelle

PMX FL-284

JAN 83

LAVELLE AIRCRAFT COMPANY
Manufacturers of Airplane Parts

NEWTOWN, BUCKS COUNTY, PENNSYLVANIA 18940 (215) 968-3838
TWX 510-667-2256

February 14, 1984

Department of the Air Force
San Antonio Air Logistics Center (AFLC)
Kelly Air Force Base, Texas 78241

Attention: Jo Ann Daniels
Chief, Operations Support Branch
Dir., Contracting & Manufacturing

Subject: Solicitation FD-2050-84-02310 Case

Gentlemen:

In reference to the above solicitation which was advertised in the CBD on January 18th, we just received your letter in which you refused to supply the package. This refusal was dated January 1983 and stated the basis of the refusal was that the supply was exhausted.

In the advertisement it was stated that no solicitation packages would be mailed prior to January 27th. Our letter was mailed on January 23rd. In it we stated that we were a small business. It is my understanding under PL95-507 that you are obligated to send a solicitation to any (all) small business that requests it. This has been confirmed in a recent decision by the GAO - in our favor.

I would appreciate your supplying the aforementioned solicitation with drawings and specifications and extending the date of the closing in accordance with the Public Law. Otherwise you may consider this a formal protest since you have excluded the Lavelle Aircraft Company from bidding on this job.

Your early attention to this matter will be appreciated.

Sincerely,

LAVELLE AIRCRAFT COMPANY

RL:lrc

Richard Ludwig
President

3/29 – Not received

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS SAN ANTONIO AIR LOGISTICS CENTER (AFLC)
KELLY AIR FORCE BASE, TEXAS 78241

REPLY TO ATTN OF: PMXO

27 March 1984

SUBJECT: Solicitation #84-75356 Plate

TO: Lavelle Aircraft Company
Manufacturers of Airplane Parts
Newtown, Bucks County PA 18940

ATTN: Richard Ludwig

1. Reference your subject letter, 22 Mar 84.

2. Additional solicitation packages are on backorder. Your request will be honored upon receipt and assembly of the packages. This office does not have the authorization to extend solicitation opening/closing dates. The question to extend the closing date should be addressed to the buyer, Virginia Meyers, SA-ALC/PMWPD, 512/925-3016.

Jo Ann Daniels
JO ANN DANIELS
Chief, Operations Support Branch
Dir., Contracting & Manufacturing

AFLC — Lifeline of the Aerospace Team

LAVELLE AIRCRAFT COMPANY
Manufacturers of Airplane Parts
NEWTOWN, BUCKS COUNTY, PENNSYLVANIA 18940 (215) 968-3838
TWX 510-667-2255

March 22, 1984

Department of the Air Force
San Antonio Air Logistics Center (AFLC)
Kelly Air Force Base, Texas 78241

Attention: Jo Ann Daniels, Chief,
Operations Support Branch Dir.
Contracting & Manufacturing

Subject: Solicitation #84-75356 Plate

Gentlemen:

We received your communication referencing our request for the above solicitation and consider your response unsatisfactory, and in fact illegal. According to PL95-507, Government agencies are required, I believe the Law states that it is mandatory, to supply solicitation packages and specifications to small businesses. "Supply Exhausted" is a non-acceptable refusal.

This solicitation was advertised in the February 22nd CBD. Our request for the bid package, in which we noted we are a small business, was mailed on February 24th. We received the above referenced response on March 22nd.

Therefore, we formally protest your excluding us from this competition. I would hope that you can now provide a full package and extend the closing date to provide us sufficient time to compete.

Very truly yours,

LAVELLE AIRCRAFT COMPANY

RL:lrc

Richard Ludwig
President

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS SAN ANTONIO AIR LOGISTICS CENTER (AFLC)
KELLY AIR FORCE BASE, TEXAS 78241

REPLY TO ATTN OF: PMXO (PMXOB/AC 512/925-7355)

SUBJECT: Request for Solicitation Package

TO: LAVELLE AIRCRAFT COMPANY
STATE STREET AT STERLING
NEWTOWN (BUCKS COUNTY) PA 18940

1. Due to the unexpected demand for solicitation 84-75356, closing on 30 Mar 84, the supply of the solicitation package has been exhausted and we are unable to honor your request.

2. The number of the initial solicitation packages prepared depends upon the anticipated demand for the item and money costs of preparing the aperture cards (drawings) if applicable.

3. Copies of all solicitation packages are maintained by the Regional DCASR Offices. If you are located near one of the offices, you may review the solicitation package and submit a letter bid if you so desire.

4. Thank you for your interest in the item solicited. We will endeavor to support all your future requests.

JoAnn Daniels

JO ANN DANIELS
Chief, Operations Support Branch
Dir., Contracting & Manufacturing

RECEIVED
MAR [illegible] 1984

Gentlemen
We received your communication referencing our request for solicitation No 84-75356 and ~~[illegible]~~ consider your response unsatisfactory and in fact illegal. According to PL95-507, Government agencies are required, I believe the law states that it is mandatory, to supply solicitation packages and specifications to small businesses. "Supply Exhausted" is a non acceptable refusal.

This solicitation was advertised in the February 22nd CBD. Our request for the bid package, in which we noted we are a small business, was mailed on 2/24. We received the above referenced response on March 22nd.

Requested 2/24

PMX FL-284 JAN 83

~~[illegible]~~ Therefore we formally protest your excluding us from the competition. I would ~~[illegible]~~ hope that you can now provide a full package and extend the closing date to provide us sufficient [illegible]

[illegible] AIRCRAFT COMPANY
Manufacturers of Airplane Parts

[illegible]

[illegible]

Naval [illegible]
Long Beach, CA [illegible]

Attention: Joyce L. Haddock, Head
Solicitations & Records Branch

Subject: Solicitation N00[illegible]-R-0[illegible], Towed Target

Gentlemen:

We received your letter of [illegible] concerning the above solicitation noting "that it is a sole source procurement". You will note that in our letter requesting the package we noted that we are a small business. Under FAR [illegible], and [illegible] based on a test case we recently brought to the GAO, [illegible] (it is mandatory according to law) to provide a bid package and [illegible] to small businesses that request them.

Incidentally, [illegible] these days indicate that [illegible] being made to avoid sole source procurements.

As a result of your action in refusing to supply the aforementioned bid package, this letter may be considered our formal protest in your excluding the [illegible] Aircraft Company from this project.

I hope to hear from you shortly on this matter.

Sincerely,

[illegible] AIRCRAFT COMPANY

RH:[illegible]

Richard [illegible]
President

213 - [illegible]

NAVAL REGIONAL CONTRACTING CENTER
LONG BEACH, CALIFORNIA 90822
TELEPHONE 213 ...-6410

IN REPLY REFER TO:
AOA:lak
08MAR84

Lavelle Aircraft Co.
Attn: Carmine J. DeLiberato
State Street at Sterling
Newtown, PA 18940

Receipt of your letter dated Jan 16, 1984 is acknowledged.

Unfortunately, we cannot comply with your request for N00123-84-R-0061 Since this is a sole source procurement, as mentioned in the Commerce Business Daily, a solicitation is not available.

Your interest in Navy procurement is appreciated.

Sincerely,

Jaye L. Haddock
JAYE L. HADDOCK
Head, Solicitaitons & Records Branch
By direction of the
Commanding Officer

RECEIVED

Gentlemen:

We received your letter ~~refer~~ concerning N00123-84-R-0061, noting that it is a "sole source procurement." You will note that in our letter requesting the package we noted that we are a small business, and as confirmation [illegible] a test under PL 95-507, and as concern recently brought to the GAO, government agencies are required (it is mandatory according to law) to provide a bid package and specifications to small businesses that request them.

Incidentally, ~~[illegible]~~ everything I read about government procurements these days indicates that there is a ~~[illegible]~~ large effort being made to avoid sole source procurements.

As a result of your action in refusing to supply the aforementioned bid package this letter may be considered our formal protest in your excluding the Lavelle Aircraft Co. from this [illegible]. I hope to hear ~~soon~~ from you soon on this matter.

11ND-NRCLB 4255/6A (REV. 1-81)

LAVELLE AIRCRAFT COMPANY
Manufacturers of Airplane Parts

NEWTOWN, BUCKS COUNTY, PENNSYLVANIA 18940   (215) 968-3838
TWX 510-667-2255

March 14, 1984

Department of the Air Force
Warner Robins Air Logistics Center (AFLC)
Robins Air Force Base, Georgia   31098

Attention: Barbara Sharpe, PMZAA

Subject: Solicitation FD-2060-84-46625, MAU-12D/A Bomb Rack

Dear Ms. Sharpe:

We received your letter of March 8th referring to the above solicitation. We have been a qualified source for the government for about 40 years, though we have not made these particular parts before.

I do not understand why you say that - "It is highly unlikely that any firm not previously qualified....could meet the requirements of this solicitation" without referring to the bid package.

You will note that in our request for the solicitation we stated that we are a small business. It is our understanding, and it has been confirmed by the GAO, that the procuring agency has a mandatory requirement to supply a full data package including specifications, when properly requested by a small business.

Since Robins AFB has not provided the package, it is obvious that we will have less time to analyze the package and provide a quotation when it does arrive. To respond to your question in paragraph 6, we do wish to receive the solicitation and we request that you extend the due date to permit us time to respond.

Sincerely,

LAVELLE AIRCRAFT COMPANY

RL:lrc

Richard Ludwig
President

Received Sol. 3/26/84
(mem rec'd decision on it)

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS WARNER ROBINS AIR LOGISTICS CENTER (AFLC)
ROBINS AIR FORCE BASE, GEORGIA 31098

Sources? [illegible]
closing date?
none

[illegible] 28 1984

REPLY TO ATTN OF: PMZAA (Barbara Sharpe, 912-926-5676)

SUBJECT: Solicitation FD2060-84-46625, MAU-12D/A Bomb Rack

TO: Lavelle Aircraft Co
Newtown, Bucks County
Pennsylvania 18940

1. This will acknowledge receipt of your request for solicitation FD2060-84-46625.

2. This solicitation is in support of urgent, DX-rated, requirements for the Cruise Missile program with installation of the racks scheduled to begin in 84 Aug. The solicitation was issued to those sources who were known to be previously qualified on the MAU-12D/A Rack.

3. Manufacturing data for the racks is not immediately available and was not furnished with the solicitation, as it had been previously supplied to the qualified sources.

4. It is highly unlikely that any firm not previously qualified (i.e. having produced a First Article which was tested by the Government and found to be acceptable) could meet the requirements of this solicitation.

5. Your interest in requesting a quotation is appreciated by this activity. If the circumstances of this acquisition were different, that is, if sufficient time existed for a competitive solicitation with supporting data, be assured that a bid set would have been sent to you.

6. If you still desire a copy of this solicitation, please send your request to Barbara Sharpe, WR-ALC/PMZAA, Robins AFB GA 31098.

John W. Vinson III
JOHN W. VINSON, III
Contracting Officer

RECEIVED

Repeated 1/31

LOWELL WEICKER, JR., CONN., CHAIRMAN
BOB PACKWOOD, OREG.
ORRIN G. HATCH, UTAH
RUDY BOSCHWITZ, MINN.
SLADE GORTON, WASH.
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ALFONSE M. D'AMATO, N.Y.
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ROBERT J. DOTCHIN, STAFF DIRECTOR
R. MICHAEL HAYNES, CHIEF COUNSEL
ALAN L. CHVOTKIN, MINORITY CHIEF COUNSEL

United States Senate
COMMITTEE ON SMALL BUSINESS
WASHINGTON, D.C. 20510

April 17, 1984

Mr. Richard Ludwig
President
Lavelle Aircraft Company
State and Sterling Streets
Newtown, Pennsylvania 18940

Dear Mr. Ludwig:

I would like to extend to you my thanks for testifying at the Senate Small Business Committee's April 6, 1984 hearing on S. 2489, the "Small Business Competition Enhancement Act of 1984", and S. 2434, a bill to amend section 15 of the Small Business Act by requiring the assignment of breakout procurement center representatives at major procurement centers. Your written statement and your oral testimony will be very helpful to the Committee during our further consideration of these two bills.

Due to the time constraints of the hearing, several important points raised by your written statement and oral testimony were not fully explored. In order to make the hearing record complete, the Committee would greatly appreciate it if you would provide written responses to the attached questions, which will be included in the printed hearing record.

Presently, I intend to include these bills on the agenda for a Committee mark-up session scheduled for May 8th. Therefore, it is essential that your written responses be received by the Committee no later than April 27, 1984.

Your responses should be directed to the Committee on Small Business, United States Senate, Room 428A Russell Senate Office Building, Washington, D.C. 20510, to the attention of William B. Montalto, the Committee's Procurement Policy Counsel. Should you have any questions concerning this request, and any requests made during the course of the hearing, please telephone Bill at 224-5175, or Alan L. Chvotkin, Minority Chief Counsel, at 224-8497.

Again, thank you for your participation at this important Committee hearing, and for promptly furnishing the responses to our questions for the record.

With every good wish, I am

Sincerely,

LOWELL WEICKER, Jr.
Chairman

Enclosures

QUESTIONS FOR MR. LUDWIG (FROM SENATOR DIXON)

- Does the Government have a need for complete and accurate technical data if that can be made available, so that it will be able to compete certain requirements?

- When the Government "pays" for the development of an item, in whole or in part, does the Government have rights to that item, and rights in the data necessary to develop and reproduce that item?

- Does the Government have a legitimate right to require the delivery of technical data to back up a purchase when that item is NOT covered by claims of proprietary data?

- Must the phrase "developed at private expense", have a single definition that is uniformly applied across all agencies, if possible?

- If a non-commercial item is not developed with Government funds, is it your view that any proprietary rights should rest solely with the private concern and be solely under the control of that private concern?

- Do you have an opinion about the recommendations of some that the proprietary data rights to a system sold to the Government become the property of the Government after a fixed period of time?

- During the planning for a procurement, should the Government be able to know in advance the extent to which its purchase may be covered by a firm's claims of proprietary data that may inhibit competition on future reprocurements?

- Should a contractor be given the opportunity to propose to the Government that the contractor will sell or license its proprietary data if it so chooses, and to provide an estimate of that cost to the Government for that sale or license?

- If a system's functional performance will be the same as between a system where the Government could have the technical data necessary for reprocurement, and a system where it has no access to that data, shouldn't the Government have the opportunity to purchase the system where the data is offered?

- Mr. Adams says on page 8 of his statement that it is not possible to tell whether proprietary data is accurate just by looking at it. Please explain the system the Government uses to challenge claims of proprietary data?

- Once a claim of proprietary data has been asserted, or a restricted Procurement Method Code assigned, is it periodically reviewed?

- Does the Government have the right to insure that its purchases are of a quality product that meets its needs? Is the Government able to properly analyze a product with the timeframes set out by a particular procurement requirement if it does not resort to some type of qualified products list? Does the qualified products list insure the Government that it obtains a quality product?

- One of the key requirements for you to produce an alternative product, or to meet the Government's military specifications is to have access to the technical data that the government may have. On procurement opportunities that you are familiar with, can you please explain some of the problems your company has had in trying to get access to technical data?

- When the government has provided you with technical data that you have asked for, have you found that that data is sufficiently complete and technically accurate to permit you to respond to government's needs. As you know, one of the contract clauses inserted in many government contracts says that, even if a contractor were to follow the government's drawings and specifications, the resulting part may still not meet the government's needs.

- Do you have any additional comments on issues that Congress should address to assist small business access to the Federal Procurement opportunities?

LAVELLE AIRCRAFT COMPANY
Manufacturers of Airplane Parts

NEWTOWN, BUCKS COUNTY, PENNSYLVANIA 18940 (215) 968-3838
TWX 510-667-2255

May 3, 1984

Committee on Small Business
United States Senate
Room 428A Russell Senate Office Building
Washington, D.C. 20510

Attention: William B. Montalto
Procurement Policy Counsel

Gentlemen:

Thank you for the opportunity to comment further on the "Small Business Competition Enhancement Act of 1984". My comments below are in response to questions from Senator Dixon in Lowell Weicker's letter of 4/17/84.

1. Not only does the Government have a need for complete and accurate technical data so that it can have the benefit of competition, but so too does the company receiving the data. The Government needs complete and accurate technical data so the Buyer can identify what it is the Government wants and the Government Inspector can inspect what the supplier provides to ensure that the item is what was ordered.

2. In my opinion, when the Government (or any customer) "pays" for the development of an item, in whole or even in part, the Government has complete rights to both the item, the data necessary to develop the item and the tools required to produce it. The only time that this should not be so, is if the Buyer negotiates these rights away.

3. Again, in my opinion, the Government has a legitimate right to require the delivery of technical data to back up a purchase when that item is not covered by claims of proprietary data if the Government identifies what it wants when it makes the original request for a bid. The Government should not claim rights after the fact because of the potential for additional cost to the supplier.

4. I believe that "developed at private expense" should have a single definition uniformly applied across all agencies. Further, I would like to see it applied (by the supplier) before the contract is awarded. If a supplier attempted to claim this after award, I would like to have the law state that it would be disallowed.

5. If an item is developed with private funds, if there is no part of the item developed with Government funds; it is my view that the proprietary rights should rest solely with the private concern developed and under his control - except in case of a National Emergency.

6. I do not want to see the Government appropriate the proprietary data rights to a system sold to the Government if the proprietary rights are, in fact, valid.

7. All contractors should have an obligation to inform the Government, in advance, of contract award when proprietary rights are being or are to be claimed. In this way negotiations can be based on that disclosure. I would not permit any proprietary claim to stand after a contract is signed if it was not previously so claimed.

8. I agree that contractors be given the opportunity to propose (or the Government to request) that he sell or license proprietary data, and to provide a firm fixed price for the sale or license.

9. The decision on which system to buy rests with the Government Buyer. If two systems are available, one with data, one without; the Buyer must make the decision as to which is the better buy.

10. I have no knowledge of the system the Government uses to challenge claims of proprietary data. I doubt very much that there are very many, if any, Government employees who know of such a system. The path of least resistance is to let the claim stand so most often that is what happens. I also agree that it is not possible to tell whether proprietary data is in truth proprietary data or that the data is accurate merely by looking at it.

11. I know of no case where a claim of proprietary data has been periodically reviewed. In fact, I know of only a few cases where the original claim has been challenged.

12. The Government has both the right and obligation to ensure that its purchases are of quality products which meet its needs. Furthermore, I believe that the Government, with its vast and comprehensive resources can and should be able to evaluate bidders and components without resorting to a qualified products list. After all, there is no guarantee that a previously qualified supplier will continue to supply high quality parts. Tomorrow, even today's, most healthy company may be bankrupt, or the key person in the company may die.

13. Not only can we frequently not get technical data, but approximately 50% of the time we cannot even get bid packages. For example, in April we requested 4 bid packages from the Defense Construction Supply Center in Columbus - received 1; requested 22 from Tinker, received 5; requested 17 from ASO & DISC in Philadelphia, received 2; requested 2 from U. S. Army Tank Command, Warren, Michigan, received none; and so on.

14. Generally when the Government provides technical data, it is sufficiently complete and accurate. If it is not, the personnel involved usually work to get it right. We have had only one case in 7 years where we have had a major problem. This is the subject of a claim against ARRADCOM, Picatinny Arsenal.

15. I have no additional suggestions or comments at this time.

I hope you find my comments and thoughts useful. Please feel free to call on me at any time.

Sincerely,

LAVELLE AIRCRAFT COMPANY

Richard Ludwig

Richard Ludwig
President

RL:lrc

CC: Sally L. Douglas, Asst. Dir. of Research
NFIB, Washington, D.C.

Senator **Dixon**. Mr. Math, we thank you very much for being here. To the extent that you can reduce your remarks and place the entire statement in the record, we would appreciate that.

STATEMENT OF PAUL F. MATH, ASSOCIATE DIRECTOR, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY SIDNEY WOLIN, GROUP DIRECTOR, NSIAD; AND JOHN G. BROSNAN, OFFICE OF GENERAL COUNSEL, GAO

Mr. **Math**. Senator Dixon, first of all, we are pleased to be here today to comment on S. 2489, the Small Business Competition Enhancement Act of 1984.

We support this legislation as containing many positive provisions for dealing with persistent causes of noncompetitive procurement and otherwise increasing competition where it is currently limited, especially for spare parts and other components.

There are a few areas in the bill, however, where we believe refinements would be useful, and we would be happy to work with the committee on these matters.

Federal contract awards totaled $168 billion in fiscal year 1983. Awards exceeding the small purchase ceiling totaled $152 billion. Of this amount, only about one-third, or $54.7 billion, was categorized as competitive.

To a large extent, S. 2489 deals with spare parts and related technical data. The bulk of spare parts are purchased by the military departments. The Department of Defense's spare parts purchases were estimated to be about $13 billion in fiscal year 1982, with $18 billion estimated for fiscal year 1984.

Recent reports by the Air Force Management Analysis Group, DOD inspector general, and our office provide some indications of the severity and causes of the lack of competition in spare parts acquisition. S. 2489 proposes changes which address these problems.

What I would like to do, in the interest of time, is highlight these reports, and then match the bill against the reports. I will just highlight the reports, the concerns that were addressed, and then we can discuss what the bill will do to address those later.

In an October 1983 report on spare parts acquisition, the Air Force Management Analysis Group noted several important facts:

First of all, the extent of competition in spare parts has been steadily declining. Only 20.7 percent of the dollars expended in the procurement of spare parts in 1982 were competed, whereas, 10 years earlier, 37.5 percent had been competed.

Second, proprietary claims on data rights inhibit competition on 8 percent of spares with a procurement source code. Even though regulations require that proprietary claims be validated, minimum action has been taken to enforce these provisions. The Defense acquisition regulation does not adequately define the term "developed at private expense," a key to determining validity of proprietary claims. Lack of a definition permits relatively unconstrained use of restrictive markings which inhibits competitive acquisition.

A third point addressed in the report is that once technical data enters the system, there are serious problems with storage, distribution, and the control of data needed for competitive procurement. The central facility for storing engineering data has been able to fill only 40 percent of the users' requests.

Fourth, regulatory and legal constraints tend to inhibit competition. For example, suppliers seeking approval as a source for a restrictively coded item are required to certify that the necessary technical data was obtained in the proper manner. Sole source suppliers must be notified and allowed to comment if the Government wants to compete an item.

The report states, and I quote, "It is often difficult, time consuming, and costly for new suppliers to become qualified to do business with the Department of Defense."

In an April 1983, DOD inspector general's report on the management of technical data and its use in competitive procurement, the following conclusions were reached:

Historically, the largest part of DOD expenditures for spare and repair parts is noncompetitive, and much is sole source through the prime contractors.

Technical data are a prerequisite to competitive procurement and are often needed to buy from the actual manufacturers of the items.

DOD activities often ordered and paid for important data that they did not receive. Also, too often these activities did not make effective use of the data that were available or obtainable.

To implement the Small Business Act, as amended, the Small Business Administration has assigned procurement center representatives to 52 Federal acquisition centers. Their major function is to maximize potential opportunities for small businesses to obtain defense contracts.

In late 1979, SBA initiated a pilot program to increase these efforts by adding breakout PCR positions at three air logistics centers. Breakout is the conversion of sole source purchases of spare parts from the prime contractor to either procurement from the actual manufacturer or competition. On August 2, 1982, we issued a report to Congressman Addabbo evaluating the effectiveness of SBA's Breakout Program.

It is important to note that the Breakout Program is most effective when needed technical data is obtained as part of the initial procurement package. In spite of the difficulties posed by the initial lack of technical data, SBA's breakout efforts have resulted in large dollar savings in relation to the program's costs.

We concluded that, one, the breakout specialists contributed to most of the breakouts reviewed; two, SBA may actually be saving the Government more money than its reports indicate, since the breakout specialists are unable to identify savings in subsequent purchases of some items due to time and resource constraints; and, three, limited time and staff prevent SBA personnal from pursuing many additional procurements with breakout potential.

To strengthen SBA's breakout efforts and to increase its ability to identify the actual manufacturers of parts which are now supplied by the prime contractors, we recommended that the Administrator of the SBA assign additional resources to the breakout efforts at the air logistics centers and consider assigning breakout PCR specialists to other DOD centers.

However, earlier this year, SBA informed us that no additional breakout PCR's had been assigned. However, we note with interest Mr. Sanders' statement that SBA has authorized an additional 10 breakout PCR's for the centers.

In a June 1, 1983, report on component breakout, we identified problems inhibiting breakout. We found that a significant part of the high-dollar-value items that were reported as acquired from the actual manufacturer were in fact purchased from the prime contractor, who had obtained the item from a subcontractor. Thus, erroneous reporting tended to conceal the severity of the problem.

We also noted a lack of serious effort to determine the validity of prime contractors' restrictive legends on technical data. One of the apparent causes of low performance of the breakout effort was a shortage of personnel dedicated to this work, and I think this was reemphasized in the testimony by SBA and Mr. Miller from Oklahoma City. In fact, this report that I am talking about now was performed at Oklahoma City, was it not?

Mr. WOLIN. Yes.

Mr. MATH. We were informed that military officials had great difficulty in determining who actually manufactures a part. An effective procedure for identifying the actual manufacturer of the spare parts is lacking. We recommend that a provision be included in future contracts to require the prime contractor to identify actual manufacturers of the components and the spare parts.

As I mentioned, I will not go into the specifics of the bill because they have been discussed at length here this morning.

I will just conclude with saying we support this bill and believe it will be a positive impact on increasing competition where it is currently limited. There are, however, a couple of provisions in the bill which we think should be refined or changed, and these are discussed in the attachment to this statement.

This concludes my prepared statement, and we would be happy to entertain any questions you might have.

[The prepared statement of Mr. Math follows:]

UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

For Release on Delivery
Expected at 10 a.m.
Friday, April 6, 1984

STATEMENT OF

PAUL F. MATH

ASSOCIATE DIRECTOR

NATIONAL SECURITY AND INTERNATIONAL

AFFAIRS DIVISION

BEFORE THE

COMMITTEE ON SMALL BUSINESS

UNITED STATES SENATE

ON

GAO VIEWS ON S.2489

Mr. Chairman and Members of the Committee:

We are pleased to be here today to comment on S.2489, the Small Business Competition Enhancement Act of 1984. We support this legislation as containing many positive provisions for dealing with persistent causes of noncompetitive procurement and otherwise increasing competition where it is currently limited, especially for spare parts and other components. There are a few areas in the bill, however, where we believe refinements would be useful. We would be glad to work with the Committee on these matters.

MAGNITUDE OF THE PROBLEM

Federal contract awards totaled $168 billion in fiscal year 1983. Awards exceeding the small purchase ceiling totaled $152 billion. Of this amount, only about one third, or $54.7 billion, was categorized as competitive.

To a large extent S.2489 deals with spare parts and related technical data. The bulk of spare parts are purchased by the military departments. The Department of Defense (DOD) spare parts purchases are estimated to be about $13 billion in fiscal year 1982 and $18 billion in fiscal year 1984.

Technical data for a spare part includes the plans, specifications, and manufacturing data on how to make the part and test its conformance to the specification. Technical data is needed to procure non-commercial items from suppliers other than the prime contractor. Technical data communicates the precise government needs to a prospective supplier.

Contractors at times provide the government with technical data that contains restrictions on its use (proprietary legends). When a contractor restricts the use of the technical data it generally means that the data cannot be used to obtain the part it describes from anyone other than the owner of the rights in the data.

The party that claims proprietary rights in technical data implies that the trade secret embodied in the technical data was developed at private (non-government) expense. The party further implies it is the owner of the data right in question either by incurring the cost to develop the trade secret or has purchased it from the developer.

Recent reports by the Air Force Management Analysis Group, DOD Inspector General, and our Office provide some indications of the severity and causes of the lack of competition in spare parts acquisition. S.2489 proposes changes which address these problems.

Air Force report on spare parts acquisition

In an October 1983 report on spare parts acquisition, the Air Force Management Analysis Group noted several important facts.

--First of all, the extent of competition in spare parts has been steadily declining. Only 20.7 percent of the dollars expended in the procurement of spare parts in 1982 were competed whereas 10 years earlier 37.5 percent had been competed.

--Second, proprietary claims on data rights inhibit competition on 8 percent of spares with a procurement source code, that is where restrictions on competition are determined together with the rationale. Even though regulations require that proprietary claims be validated, minimum action has been taken to enforce these provisions. The Defense Acquisition Regulation does not adequately define the term "developed at private expense", a key to determining validity of proprietary claims. Lack of a definition permits relatively unconstrained use of restrictive markings which inhibits competitive acquisition.

--A third point addressed in the report is that once technical data enters the system there are serious problems with storage, distribution, and the data needed for competitive procurement. The central facility for storing engineering (technical) data has been able to fill only 40 percent of the users' requests.

--Fourth, regulatory and legal constraints tend to inhibit competition. For example, suppliers seeking approval as a source for a restrictively coded item (must be purchased sole-source or from one of few qualified sources) are required to certify that the necessary technical data was obtained in a proper manner. Sole-source suppliers must be notified and allowed to comment if the government wants to compete an item. The report states, and I quote, "It is often difficult, time consuming, and costly for new suppliers to become qualified to do business with the Department of Defense".

DOD Inspector General's report on technical data

In an April 11, 1983, DOD Inspector General's report on the management of technical data and its use in competitive procurement, the following conclusions were reached

- --Historically the largest part of DOD expenditures for spare and repair parts is noncompetitive and much is sole source through the prime contractors,
- --Technical data are a prerequisite to competitive procurement and are often needed to buy from the actual manufacturers of the items, and
- --DOD activities often ordered and paid for important data that they did not receive. Also, too often these activities did not make effective use of the data that were available or obtainable.

Our report on the Small Business Administration's breakout efforts

To implement the Small Business Act, as amended, the Small Business Administration (SBA) has assigned Procurement Center Representatives (PCRs) to 52 federal acquisition centers. Their major function is to maximize potential opportunities for small businesses to obtain Defense contracts. In late 1979 SBA initiated a pilot program to increase these efforts by adding a "breakout PCR" position at three Air Logistics Centers--Oklahoma

City, San Antonio, and Warner Robins. Breakout is the conversion of sole source purchases of spare parts from the prime contractor to either, procurement from the actual manufacturer or, competition. On August 2, 1982, we issued a report to Congressman Addabbo evaluating the effectiveness of SBA's breakout program.

It is important to note that the breakout program is most effective when needed technical data is obtained as part of the initial procurement package. In spite of difficulties posed by the initial lack of technical data, SBA's breakout efforts have resulted in large dollar savings in relation to the program's costs. We concluded that (1) the breakout specialists contributed to most of the breakouts reviewed, (2) SBA may actually be saving the government more money than its reports indicate since the breakout specialists are unable to identify savings in subsequent purchases of some items due to time and resource constraints, and (3) limited time and staff prevent SBA personnel from pursuing many additional procurements with breakout potential.

To strengthen SBA's breakout efforts and to increase its ability to identify the actual manufacturers of parts which are now supplied by prime contractors, we recommended that the Administrator of the SBA assign additional resources to the breakout efforts at the Air Logisitics Centers and consider assigning breakout PCR specialists to other DOD procurement centers.

However, earlier this year, SBA informed us that no additional breakout PCRs had been assigned.

Our report on component breakout by DOD

In a June 1, 1983 report on component breakout, we identified problems inhibiting breakout. We found that a significant part of the high-dollar value items that were reported as acquired from the actual manufacturer were in fact purchased from the prime contractor who obtained the item from a subcontractor. Thus, erroneous reporting tended to conceal the severity of the problem.

We also noted a lack of serious effort to determine the validity of prime contractors' restrictive legends on technical data. One of the apparent causes of low performance of the breakout effort was a shortage of personnel dedicated to this work. We were informed that military officials had great difficulty in determining who actually manufactures a part. An effective procedure for identifying the actual manufacturers of spare parts is lacking. We recommended that a provision be included in future contracts to require the prime contractor to identify actual manufacturers of components and spare parts.

S.2489

S.2489 proposes many important changes to address these and other problems that inhibit competition, reduce the opportunities for greater small business participation in meeting government needs, and generally cause spare parts to be acquired at higher prices. It also provides for needed flexibility as long as adequate justification can be provided for deviating from requirements.

The bill first provides ways to plan for future competition by encouraging major systems development contractors to use components currently available in the supply system or components with unrestricted technical data. With respect to awarding production contracts, substantial consideration is to be given to those contractors who (1) are willing to identify any restricted data, (2) provide priced options for purchase or licensing of such restricted data, and (3) propose ways to expand small and small disadvantaged business participation.

Second, the bill would encourage the entry of new competitors by requiring the agency to (1) justify in writing the need for prequalification, (2) formalize and make known the standards required to prequalify, (3) provide opportunities for those desiring to qualify while excluding contractors that could benefit from the absence of additional qualified sources from qualifying others, and (4) provide test and evaluation services at no cost to a small business when insufficient qualified suppliers are available. In addition, solicitation announcements would be required to contain considerably more information to attract new competitors.

Third, the bill provides for improved management of technical data to promote competition. Future production contracts, for example, would be required to clearly identify (1) what technical data is deliverable and when; (2) what constitutes acceptable data; (3) what payments are related to technical data delivery; (4) whether data rights are provided to the government or withheld, including a definition of "developed at private expense", and (5) any data restrictions in advance with the contractor to prepare and retain justification supporting the restriction. In addition, authority is to be provided for the government to retain another contractor to review the validity of data restrictions, with the provision that the contractor will be liable for liquidated damages and other costs if claimed proprietary rights are found to be invalid. Further, contractors would be required to (1) agree not to charge fees or royalties to subcontractors for use of data provided to them in the past without restriction, (2) identify actual manufacturers of any part, and (3) maintain lists of subcontractors as well as other firms solicited and make such information available to the government.

In addition, the bill would establish a requirement for a comprehensive plan for the management of technical data by federal agencies.

Fourth, the bill would enable the government to expeditiously challenge and resolve proprietary data restrictions. It authorizes contracting officials to validate proprietary claims, as appropriate, and require contractors to provide support within a specified time or face removal of restrictive legends on technical data. It would also require contracting officers to review any support provided and reach a decision, subject to the disputes clause. If a contractor fails to provide adequate support and/or loses a dispute under the disputes clause in connection with a proprietary claim, the government would collect liquidated damages as stated in the contract and that contractor may be liable for the government's cost to prove its case.

We support those provisions of the bill, which should have a positive impact on increasing competition where it is currently limited. There are, however, a couple of provisions in the bill which we think should be refined or changed. These are discussed in the attachment to this statement.

This concludes my prepared statement. We will be happy to address any questions you or the Committee may have.

Suggestions Relating to S.2489

Section 5 of the bill (proposed subsection 15 (a)(9) of the Small Business Act) would prohibit a contractor from requiring a subcontractor or the government to pay a fee, royalty, or other charge for the subcontractor's use of any technical data, except that protected by patent, in the performance of a contract to furnish a component or other requirement directly to the government, if the same technical data was furnished or otherwise made available by the contractor to the subcontractor for the performance of a contract between them. This section appears to conflict with section 3 of the bill (proposed subsection 15 (m)(2)(A)(B) of the Small Business Act) that states contractors vying for major system production contracts are encouraged to offer

> "separately priced options for the purchase or licensing of such restricted technical data by the Federal agency so as to permit the competitive acquisition of requirements for such components".

In addition, with respect to this same section, it is conceivable that a subcontractor was provided with technical data with restrictive legends by a prime contractor under a non-government contract. Is it the intention of this legislation to cancel otherwise legitimate proprietary rights in technical data if a contractor had provided a subcontractor with clearly marked restrictions on its use?

Section 3 of the bill (proposed subsection 15 (b)(3) of the Small Business Act) would require the Comptroller General of the United States to provide the Congress with a report evaluating the plans of the Departments of Defense, Energy, and Transportation, and the National Aeronautics and Space Administration for the management of technical data for major systems within their jurisdiction. The Department of Defense Inspector General issued a comprehensive report dated April 11, 1983, dealing with the management of technical data and its use in awarding competitive contracts. The bulk of major systems are in the Department of Defense. We would suggest that the bill be changed to require the Inspector General in each of the named agencies to evaluate the plans of its respective agency.

Senator DIXON. Mr. Math, the chairman, Senator Weicker, has asked me to ask you this question, which he asked Mr. Vander Schaaf. Do you feel that the provisions of S. 2489 provide adequate flexibility to the procuring agencies in conducting their procurements within their responsibilities?

Mr. MATH. Yes, we do, Senator. We believe that significant flexibility is contained in the bill, and it should generally enable the agencies to perform their functions and procurement responsibilities effectively and, at the same time, achieve savings through competition.

We note, as Mr. Vander Schaaf noted, that there are waivers in the bill so that if need be, if it is not considered that certain factors or certain provisions dealing with technical data rights, et cetera, are applicable or in the best interest of the Government, then they can be waived by the contracting officer.

We also note that in terms of prequalification, it does not eliminate prequalification; it merely requires that justifications be made on whether there are going to be prequalifications or not; and we also note that, as part of the prequalification action, it does not hold up the procurement. The procurement can proceed while the contractor is being prequalified. Also, there is flexibility in terms of the number of technical advisors. S. 2434 said that there shall be four technical advisors per the SBA breakout PCR's. This S. 2489 provides the flexibility so that that will be up to the discretion of the agency, and we support that.

Senator DIXON. Very good.

Mr. Math, we are going to send you, if you don't mind, a substantial number of written questions. The Chair has other obligations and I have other obligations later today, so I will not belabor this with many other oral questions.

[Subsequent information was received and follows:]

QUESTIONS FROM SENATOR WEICKER

Question 1

. In your statement, Mr. Math, you noted that your review of spare parts procurements by the Air Force showed a sharp decline in the percentage of dollars awarded competitively -- from 37.5% in 1972 to 20.7% in 1982.

Can you suggest why this sharp decline in competition took place?

Answer 1

According to the Air Force Management Analysis Group report dated October 1983, a variety of factors are suggested as having contributed to the decline in competitive procurement of spare parts. Specifically, they are

(a) Failure to screen low value items for competitive breakout,

(b) Fielding of new weapons systems with much lower competition rates experienced in early years (estimated to account for about 37.5 percent of the decrease in competition,

(c)Inadequate/Missing engineering data, and

(d) Agency process involved in developing and qualifying additional sources to make an item competitive.

To this we would add an emphasis by spare parts buying organizations of getting contracts awarded regardless of prices or lack of competition. Competing contracts takes more time and effort than awarding sole source contracts as long as the buyer is not required to obtain and verify cost and pricing data and actually negotiate fair and reasonable price. The current procurement regulation does not require that cost and pricing data be obtained for contracts under $500,000.

Question 2

. We have heard that some major contractors make clear to their subcontractors and suppliers that any direct sales to the government will not be looked upon favorably and might adversely affect the possibility of future business with the major prime contractor.

Has any GAO's audit work uncovered any hard evidence of this?

Answer 2

We have not uncovered any documentary evidence of prime contractors making threats or otherwise implying that future business would be withheld from subcontractors or suppliers who sell spare parts directly to the government.

We have, however, found letters from prime contractors to subcontractors indicating that technical data they may have in their possession is proprietary to the prime and the subcontractor is not free to use such data in making the product for direct sales to the government.

Question 3

. The proprietary data issue is probably the most difficult element of the overall "spare parts problem" because of its potential to adversely affect legitimate rights. One of the most persistent "unknowns" has been a definition of "developed at private expense."

Do you have some views on how "developed at private expense" should be defined?

Answer 3

We have some views on how "developed at private expense" should be defined.

We believe that where a contractor pays entirely with its own funds for a development that is clearly developed at private expense. However, where the government funds a significant portion of the development (either by independent research and development money provided under government contracts or there was joint contractor/government funding), the government is entitled to the right to use such data for government purposes. The contractor, however, could retain rights for all non-government exploitation of the data.

Question 4

. In your statement, Mr. Math, you report favorably on the benefits of SBA's breakout procurement center representative (PCR) program, and urge its expansion. Both S. 2489 and S. 2434 provide a government-wide expansion. Basically, the two bills differ in the authority conferred upon the breakout PCRs.

a. Do you feel that S. 2489 incorporates the principal purpose of S. 2434?

b. Would you comment on the two approaches to the breakout PCRs functions and relations with the procurement center personnel?

Answer 4

We believe that S. 2489 incorporates the principal purposes of S. 2434. Both bills would have a breakout procurement center representative (PCR) assigned by SBA to each major procurement center. Each breakout procurement center representative would have technical advisors assigned to him by the procuring agency. S.2434 would assign four technical advisors per breakout PCR while S.2489 would leave the number to agency discretion. We believe this flexibility is desirable.

Question 5

. Do you feel that the provisions of S.2489 provide adequate flexibility to the procuring agencies in conducting the procurements within their responsibility?

Answer 5

As indicated during our testimony we believe S.2489 has sufficient flexibility to generally enable the agencies to effectively carryout their procurement responsibilities which at the same time achieve savings through competition. For example, waivers are allowed in the application of factors to be given substantial weight in the selection of awardees for competitive production contracts if the contracting officer determine that they are not applicable or in the best interest of the government. A similar waiver is provided for any of the provisions dealing with the rights in technical data and identification of actual manufacturers and solicited suppliers. In the prequalification area, the bill does not eliminate it, but requires a justification for prequalification and provides better data and more timely action to encourage entry for new competitors. It also provides that the agency need not delay procurement while awaiting for a new contractor to become qualified.

QUESTIONS FOR MR. MATH (FROM SENATOR DIXON)

Question 1

. Does the Government have a need for complete and accurate technical data if that can be made available, so that it will be able to compete certain requirements?

Answer 1

The government needs complete, accurate and up-to-date technical data in order to compete requirements or spare parts or other items unique to the government. The government does not need technical data to buy commercial items, brand name articles or other things where the purchase can be based on a functional description.

Question 2

. When the government "pays" for the development of an item, in whole or in part, does the government have rights to that item, and rights in the data necessary to develop and reproduce that item?

Answer 2

Not necessarily. If the government pays directly the total cost of development of an item as the objective of a contract, the government would normally obtain rights to the item and the related technical data. In all other situations, where the government pays indirectly through independent research & development funding or where the government pays in part for development, under current practice the government has been accepting limited rights in technical data. Limited rights customarily means the government can use the technical data for maintenance of equipment but not for reprocurement.

Question 3

. Does the government have a legitimate right to require the delivery of technical data to back up a purchase when that item is not covered by claims of proprietary data?

Answer 3

The government's rights to data arise from the contract terms as negotiated by the parties. Technical data to be delivered under a contract is usually specified in that contract. In the absence of some provision in a contact concerning data it seems that the government would have no right to demand any data, proprietary or not, from the contractor.

Question 4

. Must the phrase "developed at private expense," have a single definiton that is uniformly applied across all agencies, if possible?

Answer 4

We believe that it would be desirable to have a single definition applicable to all federal agencies. Multiple definitions of the same term tend to be confusing and could cause inconsistant application.

Question 5

. If a non-commercial item is not developed with government funds, is it your view that any proprietary rights should rest solely with the private concern and be solely under the control of the private concern?

Answer 5

Yes, unless the government need to acquire the rights to such data for national security purposes. In such instances the owner of the proprietary right would have to be fairly compensated.

Question 6

. Do you have an opinion about the recommendations of some that the proprietary data rights to a system sold to the government become the property of the government after a fixed period of time?

Answer 6

We would agree that proprietary rights should have a finite life. What is at issue is how long the government will be forced to buy spare parts on a sole source basis from a particular contractor. The contractor knowing that it will have to relinquish its proprietary rights, can negotiate the value of what is being given up in the contract price, where appropriate.

Question 7

. During the planning for a procurement, should the government be able to know in advance the extent to which its purchase may be covered by a firm's claims of proprietary data that may inhibit competition on future reprocurements?

Answer 7

Yes. The extent of proprietary claims can have a dramatic effect on the ultimate cost of a system over its useful life.

Question 8

Should a contractor be given the opportunity to propose to the government that the contractor will sell or license its proprietary data if it so chooses, and to provide an estimate of that cost to the government for that sale or license?

Answer 8

We believe a contractor should be required to propose selling or licensing its proprietary data so that the government has a basis for evaluating the cost of such a purchase or license against continuing noncompetitive procurement for spare parts. This is especially important with respect to evaluating life cycle costs when competitive options are available.

Question 9

. If a system's functional performance will be the same as between a system where the government could have the technical data necessary for reprocurement, and a system where it has no access to that data, shouldn't the government have the opportunity to purchase the system where the data is offered?

Answer 9

Yes.

Question 10

. Mr. Adams says on page 8 of his statement that it is not possible to tell whether proprietary data is accurate just by looking at it. Please explain the system the government uses to challenge claims of proprietary data?

Answer 10

We would agree that it is frequently impossible to determine the validity (accuracy) of proprietary claim to technical data by merely inspecting the data. Although, the Defense Acquisition Regulation provides the procedure for investigating and challenging proprietary claims, we have found very little activity in this regard. In essence the contractor is required to maintain adequate support for proprietary claims. Validity of proprietary claims is directly related to the definition of "developed at private expense" and this term lacks an established definition. The government's "system" of challenging a proprietary claim is to review the contractors support and make a determination as to whether that support provides convincing evidence that the proprietary data was in fact developed at private expense.

Question 11

. Once a claim of proprietary data has been asserted, or a restricted Procurement Method Code assigned, is it periodically reviewed?

Answer 11

According to Section 6-203 of DOD's breakout regulation entitled DOD Replenishment Parts Breakout Program, restricted acquisiton codes assigned because of proprietary claims must be reviewed at least once every 3 years, excluding cases involving exceptional circumstance. In practice we have found that once a proprietary claim is asserted and a restricted procurement code assigned, it is rarely if ever reviewed. Some contractors have voluntarily relinquished previously asserted proprietary claims but this is most prevalent with respect to low value, and/or low demand spare parts.

Question 12

. Are you familiar with SBA certificate of competency program established in the Small Business Act?

Answer 12

We are familiar with the SBA certificate of competency program established under the Small Business Act. Under the program if a prospective awardee for a procurement is a small business and is determined by a contracting officer to be not responsible, then that must be referred to the SBA for consideration as to the issurance of a certificate of competency. The certificate of competency in effect certifies that the firm in question is responsible e.g. financially, technically capable etc. and effectively overrides the contracting officer's determination of non responsibility.

Question 13

. In GAO's opinion, is there a minimum level at which the statutory certificate of competency program applies?

Answer 13

The Small Business Act does not limit the certificate of competency program to procurements in excess of any particular dollar amount. Regulations issued by the Small Business Administration (SBA), however, state that when a procuring agency determines that a small business concern is nonresponsible and the contract value is less than $10,000 the agency has discretion concerning whether to refer the matter to SBA. 13 C.F.R § 125.5(d). In addition, the Federal Acquisition Regulation (FAR) states that referral; to SBA need not be made whenever small purchase procedures (generally involving procurements of less than $10,000 for civilian agencies and $25,000 for defense agencies) are used. FAR § 19.602-1(a)(2). We have held that under the SBA regulation referral to SBA is required whenever the contract value is $10,000 or more, regardless of whether small purchase procedures are used. Columbus Jack Corporation, B-211829, Sept. 20, 1983, 83-2 CPD ¶ 348.

Question 14

. In your opinion, is there any basis for a contracting agency to determine that it will not refer an otherwise low bidder to SBA for a certificate of competency?

Answer 14

In addition to the discretion vested in the procuring agency regarding referral when the contract value is less than $10,000, referral to SBA is not necessary, according to the FAR, when (1) the chief of the contracting office approved a determination that a small business is not "qualified and eligible to receive an award under applicable laws and regulations," or (2) a small business is suspended or debarred. FAR § 19.602-(a)(2)-(i), (ii). Of course, referral to SBA is also not required where the firm does not claim that is is a small business concern.

Question 15

. In your view, may SBA determine that it will not accept a referral from a contracting agency that falls below a unilaterally determined threshhold?

Answer 15

We are aware of no specific authority in the Small Business Act which would authorize the SBA to decline to accept an agency referral for a certificate of competency when the procurement is below a particular amount.

Question 16

. GAO has undertaken several views of the management systems of the agencies for technical data. How would you characterize each agencies overall system for the management of technical data?

Answer 16

GAO has issued some reports discussing technical data issues in specific areas. However, the DOD Inspector General's Office recently issued a comprehensive report entitled Management of Technical Data and Its Use in Competitive Procurement, concluding a review of DOD's technical data management. According to this study, the services has not given adequate attention to policy and procedural requirements covering receipt and maintenance of technical data management. Moreover, technical data problems are the biggest reason for sole source spare parts procurements.

Question 17

. Are these agencies taking steps to administratively rectify the problems which you, the DOD IG and others, have identified?

Answer 17

The services have generally concurred with recommendations made to correct DOD's technical data management problems. In response to several of these recommendations, DOD has revised language in its breakout regulation and the accompanying military standard (MIC-STD-789) concerning technical data. The revisions are improvements over earlier versions. Effective implementation of these revised procedures, however, is essential to the success of DOD's efforts.

In addition, DOD has established the Office of the Competition Advocate which among other functions is supposed to focus attention on technical data management problems. The Air Force Management Analysis Group (AFMAG) also made several recommendations to the Air Force to improve technical data management problems, including storage and retrieval of required data. We believe the Air Force generally concurs with the AFMAG's recommendations.

Question 18

. What is the magnitude of the tasks ahead for the management of technical data for the agencies?

Answer 18

A DOD official testified this month that modernized automated data processing system for logistics are being planned to improve processing requirements, procurement functions and technical documentation systems. Improvements are needed in both hardware and software. Implementation will require upgrading and obtaining new equipment. These efforts are underway. It will take several years or more to complete this effort.

Question 19

. In your testimony you discuss the importance of defining the term "developed at private expense" in determining the ownership of rights in data. Do you have any recommendations on whether Congress should make that definition, or should we allow the agencies to develop that definition through regulation and contract clauses?

Answer 19

We believe the agencies should be given a reasonable amount of time to develop a definition for "developed at private expense" and include it in the Federal Acquisition Regulation. We further believe this is achievable in 6 months since the issues have been known for many years. If the administrative route fails, legislation would certainly be appropriate.

Question 20

. Are there other statutes or clauses that are being used that we can rely on in determining the appropriate definition for "developed at private expense?"

Answer 20

There are no statutes or clauses which define the term. Our Office has, however, dealt with the matter in bid protest cases. See for example, Megapulse, Inc, B-194986, January 15, 1980, 8a1CPD42, copy attached.

Question 21

. To your knowledge, have agencies established qualified bidders lists within some agencies?

Answer 21

It is our understanding that such lists exist.

Question 22

. Do agencies have statutory authority to establish "qualified bidders lists?

Answer 22

There is no specific statutory authority for agencies to establish qualified bidders lists. Generally, we have viewed the practice of prequalifying bidders (as opposed to products) as an unwarranted restriction on full and free competition. An agency may, however, establish a list of prequalified bidders where if the agency can show that use of such a list is critical or that it may serve to promote greater competition than might otherwise be obtained.

Question 23

. Has the General Accounting Office witnessed a growth in the use of qualified bidders lists by federal agencies?

Answer 23

We do not have sufficient information to respond to this question. The Department of Defense should be able to provide some data on this question.

Question 24

. In your judgment, should there be some statutory framework for procuring agencies to follow when establishing qualified bidders lists?

Answer 24

No. We believe that it would be more appropriate to provide for such lists in procurement regulations.

Question 25

. Has it been your experience that the qualified bidders list has been used as a means to exclude business (including small business) from an opportunity to participate in the bidding process? In effect, does the qualified bidders list act as a prescreening process?

Answer 25

The qualified bidders list is in fact a prequalification mechanism. It does serve to exclude any one not on the list from bidding. The justification for the both the qualified products list and the qualified bidders list is that the qualification process takes so long that it would unduly delay a procurement if it was conducted between the time bids or proposals are solicited and a contract awarded. One of the main complaints regarding such lists is the lack of a clear written statement on the requirements for qualification. Another complaint is the cost of prequalification without any assurance that a solicitation will be issued in the near future.

Question 26

. Does the government have the legal authority today to require the approval of subcontractors that a prime contractor might use in the performance of a particular contract? Should the government have the right? Why not let the prime contractors, qualify subcontractors and remove the government from this process?

Answer 26

Yes. The government often has the authority to approve certain subcontracts, that a prime might award under its contract. The government's right to approve subcontracts is contained in the prime contract and is generally limited to subcontracts above a stated value.

Almost all subcontactors are currently qualified by prime contractors and the government is not normally involved to any great extent.

Senator DIXON. Would you give me the benefit of your view of the qualified bidders list and the qualified products list question as you perceive it?

Mr. MATH. Do you want to take that, John?

Mr. BROSNAN. Yes.

Senator DIXON. You are Mr. John G. Brosnan?

Mr. BROSNAN. John Brosnan, yes.

Mr. MATH. John is with our General Counsel's office in the General Accounting Office.

Mr. BROSNAN. From my experience in adjudicating bid protests over the years, I find that there is no question but that these lists are needed. I think the problems lie in the abuse of the system. It appears, as the gentleman stated before us, there are situations where a procuring activity will not send you a solicitation unless you are on the list.

Now, the regulations are not written that way. They are not supposed to do that. They tend to do this kind of thing all the time.

Senator DIXON. Why do you think they do that, Mr. Brosnan?

Mr. BROSNAN. Well, I think it is a combination of things. I don't really attribute any nefarious motives on behalf of the procurement people, but I think the problem is just that you have a list with four or five people on it; you have been dealing with the same four or five people for a number of years; who needs somebody else?

Senator DIXON. It is a case of being comfortable to do it that way.

Mr. BROSNAN. That is right.

Senator DIXON. If it costs the taxpayers a little bit more money, who cares?

Mr. BROSNAN. Well, I don't think they see it exactly that way. I think they see it in the sense that these contractors' parts work; the plane is not going to crash if their parts are in it; so I am going to stay with these contractors and be safe. I think that is one of the problems.

I thought he had a good idea as far as the qualified parts list of having manufacturers qualified for groups of related parts. I thought that was a very good idea. I think that could be accomplished under the current regulations. You wouldn't need any statutory authority or anything to do that.

Senator DIXON. I appreciate that observation.

Did you have anything you wanted to add, Mr. Wolin? I see you sitting there at the table.

Mr. WOLIN. No, I think John covered it.

Senator DIXON. We will be asking you a variety of additional questions in writing. I wanted to express the appreciation of myself and the chairman, Senator Weicker, for the cooperation we have received from all of you. You were very helpful in formulating many of the provisions that have been included in this legislation, which, of course, is still subject to additional modification and refinement. I have been asked by the Chair and others to express to you our appreciation.

Mr. MATH. Thank you, Senator. We appreciate that.

Senator DIXON. Thank you for your time this morning.

Ladies and gentlemen, this hearing stands adjourned subject to the call of the Chair, Senator Lowell Weicker of Connecticut.

[Whereupon, at 11:52 a.m., the committee recessed, to reconvene at the call of the Chair.]

S. 2489, THE SMALL BUSINESS COMPETITION ENHANCEMENT ACT OF 1984; AND S. 2434, A BILL TO AMEND SECTION 15 OF THE SMALL BUSINESS ACT BY REQUIRING THE ASSIGNMENT OF BREAKOUT PROCUREMENT CENTER REPRESENTATIVES

THURSDAY, APRIL 12, 1984

U.S. SENATE,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The committee met, pursuant to notice, at 9:35 a.m., in room SR-428A, Russell Senate Office Building, Hon. Don Nickles (acting chairman of the committee) presiding.

Present: Senators Nickles, Kasten, Gorton, Levin, and Dixon.

Staff present: William B. Montalto, procurement policy counsel; Alan L. Chvotkin, minority chief counsel; and Dorothy C. Olson, hearing clerk.

STATEMENT OF HON. CARL LEVIN, A U.S. SENATOR FROM THE STATE OF MICHIGAN

Senator LEVIN [acting chairman]. While awaiting the arrival of Senator Nickles, who will chair the hearing today, I will ask the witnesses to come up to the witness table. The first panel consists of Mr. Harvey Gordon, Assistant Deputy Under Secretary for Acquisition Management of the Department of Defense; Mr. Stuart Evans, Assistant Administrator for Procurement from NASA; and Mr. Barnett Anceleitz, Director of the Office of Installations and Logistics at the Department of Transportation.

I think we will get the hearing going because everybody has other commitments, and we don't want to hold up our witnesses. I know I have other commitments and I must leave. What I would like to do is kind of reverse the usual order, since I must leave, and then the chairman will come and officially kick us off if that's all right. I have a number of questions about our data management, the data that we do try to keep track of so that we can encourage competition, we not do to a large extent manually. I know we are trying to install a computer system so that we can manage our data better. Perhaps we have already started this installation, we are on our way, and we want to increase it.

Mr. Gordon, has the Department requested funds from the OMB or the Congress for this computerization?

Mr. GORDON. It is within the 5-year defense program budget. We have requested $144 million.

Senator LEVIN. What year will it be funded, according to that 5-year program?

Mr. GORDON. Subject to the availability of funds, we will start our computer installations in fiscal year 1985. We hope to have them entirely completed at all the data repositories by fiscal year 1989.

Senator LEVIN. Can you give us that breakout year-by-year of that, was it $150 million? What was the total?

Mr. GORDON. $144 million, sir.

Senator LEVIN. How much in 1985, for instance, of the $144 million?

Mr. GORDON. I would like to be able to provide that for the record, please, sir.

[Subsequent information was received and follows:]

AUTOMATION OF DOD'S TECH DATA REPOSITORIES

The funding profile for technical data automation in DoD is broken out below by year and by Military Service.

While figures for Army and Air Force data automation efforts have been specifically identified in the budget process, the Navy has grouped and co-mingled its data automation efforts with other logistics related programs. Our figures for the Navy represent our best effort to segregate data automation efforts. Work is underway to develop a coordinated plan for respository automation for all elements of the Navy. As this plan matures, we would anticipate reallocation of current budget authority and revision of outyear budget figures.

[Figures in millions]

	Fiscal year—						
	1984	1985	1986	1987	1988	1989	Total
Army	7.2	4.8	6.2	7.6	7.6	7.6	40.4
Air Force	7.2	5.6	17.5	4.3	1.7	1.9	38.2
Navy	6.5	6.6	8.1	10.1	10.1	10.1	51.5
Marine Corps						2.2	2.2
DLA	5.2	5.3	.3	.3	.3	.3	11.7
Total	26.1	22.3	32.1	22.3	19.7	22.1	144.0

Senator LEVIN. All right. Is most of it front-loaded or end-loaded?

Mr. GORDON. The investment is essentially in modernized computer hardware, and I think the bulk of the money starts in fiscal year 1986.

Senator LEVIN. If the Congress decided to speed up this process, could we? As a practical matter, if we put a little more money in 1985, would that speed it up or is there as much there as you can handle administratively?

Mr. GORDON. I really cannot give you an informed view on that. There are certain constraints other than money, in that we have over 200 million items in our data repositories. The question of programming and going through this data, reviewing it for its accuracy, currency, and suitability is part of the task, but money is a constraint as well as personnel resources.

Senator Levin. Can you give us an answer for the record to that question, as to whether or not any increase in funding in 1985 will enable you to expedite this process?

Mr. Gordon. There is no question about that. I just don't know the degree to which the entire plan can be accelerated just by the provision of additional funds.

Senator Levin. Will you be able to tell us that for the record?

Mr. Gordon. We will provide you that information for the record.

[Subsequent information was received and follows:]

Automation of DOD's Tech Data Repositories

Until the negotiations are complete for the acquisition of the first optical disc systems, it will be difficult to determine whether the rate of acquisition and installation of these new technology disc systems can be accelerated. We have solicited for these systems and plan for contract award by the end of the fiscal year. At that time we should have more accurate information on the vendor's ability to accelerate delivery. There is an administrative requirement to conduct extensive system testing on the initial deliveries as a precondition. This on-site testing requirement precludes any acceleration before FY 1986. The Air Force has planned to acquire systems for the three remaining Air Logistics Centers in FY 1986. The Army, however, has been forced to stretch out systems acquisition through FY 1989 because of budget constraints. They would prefer to acquire these systems in FY 1986, if funds were made available. The Marine Corps has budgeted for FY 1989. If funds were available, they would like to buy the equipment in FY 1985. The Army and Marine Corps requirements for funding accelerated procurement of optical disc equipment would be:

[Figures in millions]

	Fiscal year—					
	1984	1985	1986	1987	1988	1989
Army	7.2	4.8	29.9	0.4	2.3	1.9
Marine Corps		2.2	.1	.1	.1	.1

The funds identified in FY 1987, 1988, and 1989 represent data communications costs, maintenance, and programming support.

There is a program area that, while not specifically part of the program to automate the storage and retrieval of engineering drawings, is vital to effective and efficient utilization of our engineering drawings to maximize competition. We are separately identifying this program for engineering data indexing, and identifying the additional resources needed for this effort, as we feel that proper indexing of our drawings is as vital to promoting competition as automating the storage and retrieval of the engineering drawings. Proper indexing will involve more than the rudimentary method that indexes drawing numbers to machine storage locations. This indexing mechanism would relate part numbers and National Stock Numbers to drawing numbers and the relationships of parts to their next higher assembly. Without an automated index, it is difficult to assemble and maintain currency of reprocurement data packages. The Army has already developed an indexing system called Technical Data Configuration Management System (TD/CMS). Both Air Force and Marine Corps have expressed willingness to adopt this system. Army analysis indicates that $2.5 million will be needed to program the enhancements, and that this effort could begin in FY 1985. These resources are in addition to the Army automation efforts identified in the previous paragraph.

Data entry for this program will be time consuming, as it will require viewing each drawing and extracting part numbers and other drawing numbers from the image and keypunching the information. The Air Force, for example, estimates a cost of $30 to $40 million for contractor review and entry of indexing data for the drawings presently stored at the five Air Logistics Centers. The Air Force has not funded the indexing of engineering data, and they indicate that they would have little trouble prioritizing workload so that any resources would be directed to areas that would have the most beneficial impact on competitive spare parts acquisition. Army has entered all its information into TD/CMS.

Senator LEVIN. OK. The other question that I want to ask before I have to leave has to do with the question of proprietary claims and how we handle that relationship. Industry and business obviously invest, which in many instances make a proprietary claim understandably. Isn't it true as a practical matter than unless we resolve that before we award a contract, that we have lost a lot of our leverage on that issue?

Mr. GORDON. Not necessarily, sir. The problem of data rights, based upon our analysis, appears to be a driving consideration in only about 3 percent of our sole-source procurements. The principal problem that we have is being able to manually retrieve the engineering drawings which we get from the contractor, review them, and compile a reprocurement data package. We do not buy reprocurement data packages. We buy drawings suitable for use in a reprocurement data package. The reprocurement package involves more than just the contractor's drawings. Under our present policy, there is an affirmative responsibility when challenged by the Government for the contractor to substantiate the validity of his proprietary rights, and he bears the burden of proof.

Senator LEVIN. In what percentage of the parts that we buy is there a proprietary right, approximately?

Mr. GORDON. It varies from 3 to 9 percent.

Senator LEVIN. Our chairman is here, and I will end the unofficial part of this hearing.

We banged the gavel sort of weakly so I could ask a few questions. They have not given their opening statements.

STATEMENT OF HON. DON NICKLES, A U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator NICKLES [acting chairman]. Senator Levin, I appreciate you beginning the hearing because we do have a lot of important witnesses today and their time is important, as well as all of us who are under time constraints.

With that in mind, I will ask all of our panelists if they will keep their comments very brief, if possible. We will enter all their statements in the record as if read, and thus ask if they would summarize these. We do have an outstanding list of panelists today. Unfortunately, today also we are very busy on the floor and I expect that we will be having some amendments even early this morning. That is unusual, so it is going to be a busy day for all. Therefore, if you could summarize your comments, I would certainly appreciate it.

Today we will be receiving comments on two bills pending before the Senate Committee on Small Business. The first is Senate Bill 2489, the Small Business Competition Enhancement Act of 1984, and the second is Senate Bill 2434, a bill to amend section 15 of the Small Business Act by requiring the assignment of breakout procurement center representatives. The first measure, S. 2489, will be the focal point of the hearing this morning.

Today's session is the second of two hearings held in Washington, DC on these two pieces of legislation. Prior to these hearings in

Washington, there were hearings held in each of four States, including my State of Oklahoma. Those hearings provided a valuable data base for the development of S. 2489, which was introduced on March 29.

The intentions of the Small Business Competition Enhancement Act of 1984 are to open future procurements associated with major systems to more businesses, as well as to expand the base of contractors competing for the Federal procurement dollar. It would propose to make available technical data to contractors necessary for manufacturing replacement parts, and allow for review of certain data which has been labeled as proprietary.

A cross section of witnesses representing the views of major procuring agencies as well as the business community will hopefully provide us with valuable insight as to the direction of this important legislation. It is the hope of this committee that it can report legislation which will address the problem of competitive Federal procurement. These hearings will help shape the future of that legislation.

It is very evident with the present fiscal difficulties facing our Nation, that we must look very closely at how we spend our procurement dollar. I welcome our witnesses, and I am hopeful that they will aid us in fashioning some legislation that will help suit the needs of both the Federal Government and the private sector as well.

I might even add a caveat: I come from the private sector and also from the manufacturing side of the private sector, so I am very aware of some of the difficulties small businesses have encountered in trying to get into the Federal procurement cycle. It has been a hassle and it is one that is, in my opinion, far too complicated, too much redtape. We need to work to ensure that we open up the doors, not close the doors to Federal competition. I think that this is the intent of this particular legislation which I am happy to cosponsor.

I am also pleased that we have two distinguished Senators with us in addition to Senator Levin: Senator Dixon, who has taken the lead on this legislation and has introduced this and other related legislation—Senator Dixon, do you have any opening comments you wish to make?

Senator DIXON. I do not, Mr. Chairman.

Senator NICKLES. Senator Kasten, we are honored that you would join us as well. Did you have any opening comments?

Senator KASTEN. I do not, Mr. Chairman.

Senator NICKLES. Thank you very much. We appreciate the hearings that you did have in Wisconsin.

Again, I will repeat, a lot of the questions that we have are technical in nature so we will submit additional questions for the record, and we would appreciate your prompt response to those, and we would also appreciate it if you could summarize your statements and we will enter those into the record. We also ask that all of our panelists would hopefully adhere to a 5-minute timeframe. Thank you very much.

Mr. Gordon.

STATEMENT OF HARVEY J. GORDON, ASSISTANT DEPUTY UNDER SECRETARY OF DEFENSE, RESEARCH AND ENGINEERING (ACQUISITION), U.S. DEPARTMENT OF DEFENSE

Mr. GORDON. I appreciate the opportunity to discuss S. 2489 and S. 2434, requiring the assignment of breakout procurement center representatives. I will, complying with your request, limit my remarks primarily to specific concerns that we have with the subject legislation. But, I would first like to comment that in a large and vital system such as defense procurement, changes must be carefully considered or we risk jeopardizing the very mission of the Defense Department, national security. We have determined ourselves that changes are needed and they are underway, but these changes must be carefully constructed.

We would also respectfully submit that this committee keep in mind when proposing changes to the procurement system that it has just recently changed, on April 1, 1984. On this date, the Federal Acquisition Regulation System took effect, after over 5 years of planning and hard work. Hundreds of people worked on that effort to develop a simplified, uniform system of regulations. We have trained over 50,000 acquisition personnel in the workings of this new regulation, and the private sector has likewise invested tremendous amounts of their own time and money to prepare for the new regulations.

Such new changes in the basic procurement law as proposed by S. 2489 may waste this effort in whole or in part. Just when the professional acquisition community should be settling down to operate under a new regulation, it could well be put into turmoil. However, the thrust of the provisions of S. 2489 does strike close to a number of initiatives that we have undertaken on our own. We certainly do not disagree with the objective but simply on the methods employed to achieve more value for the taxpayer, with all elements of industry, large and small, being provided enhanced opportunity to compete in the defense market.

We earnestly believe that the principal subjects in the bill dealing with technical data and breakout, if they are to be addressed, should be in the form of changes to the armed services Procurement Act of 1947. We already deal with a plethora of statutes impacting on the procurement process. The Commission on Government Procurement, over a decade ago, found over 4,000 laws having some impact on procurement. Legislative subjects that address how the procurement process is to function, we believe, should be contained in a basic armed services statute.

The House Committee on Armed Services has recently reported H.R. 5064, introduced by Representative Nichols. A number of the provisions in that bill are similar to S. 2489. Certainly the overall objective of the bills, to enhance competition in obtaining downstream components and parts, is the same. We believe that H.R. 5064 has wider scope, and it modifies our basic procurement statute.

As to the specific sections of S. 2489; I would like to address first, section 3, planning for future competition. The objective of this provision is in accord with our current initiatives. We have mandated the application of the DOD Parts Control Program in development contracts. We have also developed a model concept to encourage major system contractors to develop several subcontract sources and breakout items to ensure subsequent competition. Our principal concern with this section is that the concept first be tested before being made permanent by regulation or statute.

As to section 4, encouraging new competitors to broaden the industrial base, section (n)(1) refers to prequalification requirements and presumably relates to specifications calling for prequalification of an item, for instance, QPL or Qualified Products List. Our current policies and practices are consistent with the purpose of this subsection except as to underwriting the cost of qualifying an unqualified item. Currently we do so where additional sources are deemed necessary. It would in our view, however, be costly to underwrite testing of all potential suppliers who believe their product would be acceptable.

Subsection (n)(3) is similar to (n)(1) but applies to qualifying additional sources when fewer than five sources are currently qualified. Assumedly, in this case the agency must also bear the cost of qualification if the prospective contractor is a small business. We suggest that encouraging additional suppliers to qualify when we may already have two or more will be expensive to both industry and to the Government. More importantly, it is not clear whether this subsection modifies (n)(1) or is an additional requirement.

Subsections (b)(1)(A) and (C) expand the notice requirements for synopsizing in the Commerce Business Daily. We find this a costly administrative requirement. It would be next to impossible to comply with the intent of the provisions as they are presently specified.

Subsection (b)(1)(E)(6) would, among other matters, require the public posting of any solicitation that would have been synopsized had it met the dollar threshold. Currently, we do post solicitations exceeding $5,000 and permit the posting of lesser-valued solicitations if the procuring activity views it cost effective. This provision would entail the posting of hundreds of thousands of small dollar actions. This would be immensely burdensome. We believe the time and cost of doing this would offset any anticipated benefit. We have almost 14 million procurement actions in the Department of Defense that are less than $25,000. We already post all those over $5,000. It would mean posting, literally, hundreds of thousands of additional solicitations.

Section 5, on technical data management to foster future competition, requires that major system production contracts contain appropriate provisions related to technical data. The general thrust is similar to the provisions in H.R. 5064. While we are in accord with the general concept of this subsection, it is directed at less than 3 percent of the 2 million plus spare parts we have screened under the breakout program and that are coded as restricted by proprietary claims. We find, of the 2 million parts we have screened, in only 3 percent of the instances is the coded constraint against competition directly related to the assertion of propriety rights in data by our suppliers. We also recommend deletion of the provision for liquidated damages. The courts will customarily not enforce any such provision when it is for more than nominal damages and it appears to be punitive in nature.

Subsection (b)(1) requires the development of a plan for the management of technical data within 1 year and a Comptroller General evaluation of the plan within 18 months. This is also similar to the provisions of H.R. 5064. While the objective of this provision is understandable, the task is monumental. We have over 200 million pieces of technical data in our repositories. We add an average of 5,000 to 7,000 per month per reposition. Before this task could be accomplished, automatic data processing equipment would be needed as well as additional personnel resources. We have taken the initiative to update our repositories but it is a long-term project, subject to funding priorities and constraints. We recommend that only a requirement for a plan be in the legislation, with the plan to designate when the task will be targeted for accomplishment.

Section 6 deals with validating proprietary data restrictions and we agree we should challenge contractors' assertions of rights in data. We do, where other evidence indicates the data was developed at Government expense or is otherwise available to the public. However, we believe this subsection may have the unintended effect of needlessly discouraging contractors from using the most technologically advanced components where there may be a concern as to how, when, and who paid for the data developed. This could result in less effective military equipment. We think the provision should provide for some flexibility in application, and we suggest that it be stated only as a general matter of policy.

Section 7, dealing with breakout procurement center representatives, is very similar to the provisions of S. 2434. It would require the Small Business Administration to assign a breakout procurement center representative to each major procurement center, with certain duties. SBA has recently established a pilot breakout program and breakout procurement center representatives which have been assigned to four U.S. Air Force air logistics centers. We think the SBA's Program should be given a chance to work before legislation in this area is seriously considered. In our view, administrative action with its attendant flexibility is preferable to creating a rigid statutory scheme.

Section (q)(3) requires each agency to assign technical advisors. We firmly oppose the statutory reallocation of technically qualified agency personnel resources for the exclusive purpose of supporting SBA employees. In our view, this would be wasteful and further accentuate the current shortage of qualified technicians and engineers working other concurrent important spare parts acquisition initiatives. With respect to the definitions, we suggest merely that definitions, under the best of circumstances, are a problem. We should leave to the agency's regulatory provisions, the authority to prescribe definitions.

This concludes my statement, and I will endeavor to answer any and all questions you have.

Senator NICKLES. Thank you very much, Mr. Gordon.

[The prepared statement of Mr. Gordon follows:]

HOLD UNTIL RELEASED
BY THE COMMITTEE

THE DEPARTMENT OF DEFENSE
STATEMENT ON
S. 2489/S. 2434

BY

MR. HARVEY J. GORDON
ASSISTANT DEPUTY UNDER SECRETARY OF DEFENSE
RESEARCH AND ENGINEERING
(ACQUISITION)

BEFORE THE
COMMITTEE ON SMALL BUSINESS
UNITED STATES SENATE
98th CONGRESS, SECOND SESSION

APRIL 12, 1984

I APPRECIATE THE OPPORTUNITY TO DISCUSS S. 2489, THE "SMALL BUSINESS COMPETITION ENHANCEMENT ACT OF 1984," AND S. 2434, REQUIRING THE ASSIGNMENT OF BREAKOUT PROCUREMENT CENTER REPRESENTATIVES. WE ARE FULLY SUPPORTIVE OF INCREASING THE OPPORTUNITIES FOR SMALL BUSINESS TO PARTICIPATE IN THE DEFENSE MARKET AND ENHANCING COMPETITION. BEFORE COMMENTING ON THE BILLS, I WOULD LIKE TO GIVE A BRIEF ACCOUNT OF SOME OF OUR ACQUISITION REFORM EFFORTS.

ALMOST 50,000 MEN AND WOMEN MAKE THE DEFENSE CONTRACTING SYSTEM INTO WHAT WE FEEL IS ONE OF THE MOST EFFICIENT OF ANY GOVERNMENT AGENCY. DESPITE THE IMPRESSION GIVEN AT TIMES IN SENSATIONALIZED REPORTS OR BY CRITICS OF THE NATIONAL DEFENSE ESTABLISHMENT, MILLIONS OF ACTIONS TAKE PLACE AND BILLIONS OF DOLLARS ARE SPENT WITH EFFICIENCY AND A PROFOUND REGARD FOR SAFEGUARDING THE TAX DOLLARS ENTRUSTED TO PROCUREMENT PROFESSIONALS.

HOWEVER, TO IMPROVE THE EFFECTIVENESS OF THE ACQUISITION SYSTEM, THIS ADMINISTRATION, SHORTLY AFTER TAKING OFFICE, ESTABLISHED THE ACQUISITION IMPROVEMENT PROGRAM, FREQUENTLY REFERRED TO AS THE 32 CARLUCCI INITIATIVES. AS A RESULT OF A THOROUGH REVIEW OF THE ORIGINAL 32 INITIATIVES CONDUCTED LAST SPRING, THE DEPUTY SECRETARY OF DEFENSE DIRECTED THAT PRIORITY ATTENTION BE GIVEN TO SIX KEY MANAGEMENT AREAS:

- o IMPROVING PROGRAM STABILITY
- o EXPANDED MULTIYEAR PROCUREMENT
- o MORE-ECONOMIC PRODUCTION RATES
- o MORE REALISTIC BUDGETING
- o IMPROVED SUPPORT AND READINESS
- o ENCOURAGING COMPETITION

SIX HIGH-LEVEL GROUPS HAVE BEEN MEETING REGULARLY DURING THE PAST YEAR TO MONITOR IMPLEMENTATION EFFORTS AND RECOMMEND ACTIONS NECESSARY TO ACHIEVE FULL IMPLEMENTATION. I SHOULD ADD THAT IMPLEMENTATION EFFORTS ALSO CONTINUE, AS NEEDED, ON OTHERS OF THE ORIGINAL 32 INITIATIVES WHICH HAVE NOT BEEN RESOLVED. THE SIX INITIATIVES OF THE DEPUTY SECRETARY, HOWEVER, ARE THE CRITICAL PROBLEM AREAS WHICH PROMISE THE GREATEST BENEFITS. LET ME BRIEFLY COMMENT ON THE ONE CONCERNING COMPETITION.

COMPETITION HAS BEEN THE PREFERRED MEANS FOR ACQUIRING SUPPLIES AND SERVICES IN THE GOVERNMENT FOR GENERATIONS. FOR MANY YEARS, OBSERVERS HAVE WRONGLY EQUATED COMPETITION WITH THE METHOD OF PROCUREMENT; THAT IS, FORMAL ADVERTISING. THE COMMISSION ON GOVERNMENT PROCUREMENT HIGHLIGHTED THIS PROBLEM MORE THAN A DECADE AGO. THERE IS NO SUCH THING AS FORMAL ADVERTISING IN THE PRIVATE SECTOR. WE REQUIRE OUR PURCHASING ACTIVITIES TO SOLICIT COMPETITIVE OFFERS WHENEVER COMPETITION IS PRACTICABLE, WHETHER BY THE NEGOTIATION METHOD OR BY FORMAL ADVERTISING. HOWEVER, FORMAL ADVERTISING IS A METHOD UNIQUE TO GOVERNMENT AND UNSUITABLE FOR MOST OF OUR PROCUREMENT EFFORTS.

OBTAINING EFFECTIVE COMPETITION IS A LONG-STANDING OBJECTIVE. ALMOST ALL OF OUR MAJOR PROGRAMS, FOR INSTANCE, HAD COMPETITION AMONG PRIME AND SUBCONTRACTORS DURING THE DEVELOPMENT PHASE. THOSE WHICH WERE NOT COMPETED WERE SOLE SOURCE AS A FUNCTION OF NECESSITY, NOT CHOICE. FOR EXAMPLE, ONLY ONE SHIPYARD MAKES NUCLEAR AIRCRAFT CARRIERS. A FACT WHICH IS HARD TO AVOID.

NEVERTHELESS, A NUMBER OF ACTIONS ARE UNDERWAY TO IMPROVE OUR PERFORMANCE IN COMPETITION. THE SERVICES AND THE DEFENSE LOGISTICS AGENCY HAVE DESIGNATED ADVOCATES FOR COMPETITION WITHIN THEIR RESPECTIVE ORGANIZATIONS. COMPETITION GOALS HAVE BEEN ESTABLISHED BY EACH OF THE SERVICES AND DLA. WE ARE WORKING TO MAKE IT EASIER TO DETERMINE THE COSTS AND BENEFITS OF COMPETITION IN THE PRODUCTION PHASE AND CLARIFY POTENTIAL APPLICATION OF LEADER/FOLLOWER AND OTHER MEANS OF SECOND SOURCING FOR PROGRAMS BEING PLANNED OR ALREADY IN PRODUCTION. THE POTENTIAL FOR SAVINGS IN THIS AREA IS HIGH, AND THE BENEFIT TO THE INDUSTRIAL BASE IS UNEQUIVOCAL. AS AN INDICATION OF OUR COMMITMENT TO IMPROVE COMPETITION, THE DEPARTMENT HAS REQUESTED A LEGISLATIVE CHANGE TO ESTABLISH A NEGOTIATION EXCEPTION FOR DEVELOPING A SECOND SOURCE. THE ACTION IS NOW IN THE HANDS OF CONGRESS.

SOME OTHER ACTIONS WE ARE TAKING TO ENHANCE COMPETITION ARE CENTERED IN THE INTERSERVICE HIGH LEVEL WORKING GROUP ON COMPETITION. THIS GROUP HAS RECOMMENDED TECHNIQUES FOR IDENTIFYING SECOND SOURCE OPPORTUNITIES, IMPROVING DATA ACQUISITION POLICIES, AND INCREASING THE EXTENT OF COMPETITION AT THE SUBCONTRACTOR LEVEL. THE DEPUTY SECRETARY OF DEFENSE HAS ACTED ON THESE RECOMMENDATIONS WITH A SERIES OF MEMORANDA TO DOD COMPONENTS DATED MARCH 12, 1984. THE GROUP HAS ALSO DEVELOPED A NEW DIRECTIVE ON COMPETITION WHICH IS BEING COORDINATED WITH THE DOD COMPONENTS. THIS DIRECTIVE WILL FIRMLY COMMIT ALL ELEMENTS OF THE DEPARTMENT TO PURSUING COMPETITION. IT WILL ACCENT EARLY PLANNING AND MARKET RESEARCH TO ENHANCE COMPETITIVE OPPORTUNITIES.

THROUGH ACTIONS SUCH AS THESE, THE ENTIRE PROCUREMENT PROCESS IS FOCUSING ON INCREASING COMPETITION WHERE IT MAKES SENSE. PERHAPS THE MOST VIVID EXAMPLE OF WHAT CAN BE DONE WITH EARNEST CONGRESSIONAL SUPPORT IS THE RECENT ALTERNATE FIGHTER ENGINE COMPETITION CONDUCTED BY THE AIR FORCE. IT WAS NOT ONLY AN EFFECTIVE PROGRAM COMPETITION, BUT ONE THAT ASSURED FUTURE COMPETITION FOR OUR DOWN-STREAM SPARE PARTS REQUIREMENTS.

IN THE AREA OF SPARE PARTS ACQUISITION, WE ARE PURSUING MANY DETAILED INITIATIVES TO CORRECT PROBLEMS WE HAVE UNCOVERED.

AS A RESULT OF DISCLOSURES BY THE DOD INSPECTOR GENERAL, INTERNAL AUDIT ORGANIZATIONS, AND OTHER DOD PERSONNEL OF EXCESSIVE PRICES PAID FOR SPARE PARTS, THE SECRETARY OF DEFENSE, BY MEMORANDUM OF JULY 25, 1983, DIRECTED THAT ACTION BE TAKEN TO IMPROVE SPARE PARTS PROCUREMENT. THIS WAS FOLLOWED A MONTH LATER, ON AUGUST 29, 1983, BY MORE ENCOMPASSING DIRECTION AS TO ACTIONS AND INITIATIVES TO BE TAKEN TO REFORM SPARE PARTS ACQUISITION.

THIS IS NOT A NEW PROBLEM. IT HAS HAUNTED THE DEPARTMENT FOR SEVERAL DECADES. PAST ADMINISTRATIONS HAVE, AT TIMES, INITIATED EFFORTS TO GET ON TOP OF THE PROBLEM BUT DID NOT SUCCEED. ACQUIRING AND MANAGING OUR INVENTORY OF NEARLY 4 MILLION ITEMS IS VERY PEOPLE INTENSIVE. I KNOW OF NO ORGANIZATION THAT APPROACHES THE SIZE OF OUR INVENTORY OR THE VOLUME OF OUR PROCUREMENT TRANSACTIONS.

CLEARLY, SHORTFALLS IN RESOURCES HAVE CONTRIBUTED TO THE SPARE PARTS PROBLEM. BUT, MANAGEMENT ATTENTION WAS ALSO LACKING. EXPEDIENCIES AND SHORTCUTS WERE TAKEN TO MEET AN EVER INCREASING DEMAND FOR SUPPORT OF EQUIPMENT, WITH LITTLE CHANGE IN THE NECESSARY RESOURCES. THE SECRETARY OF DEFENSE HAS MOVED MOST AGGRESSIVELY TO IMPROVE THE POLICY GOVERNING THE ACQUISITION AND MANAGEMENT OF SPARE PARTS. WE ARE COMMITTED TO MAKING THESE IMPROVEMENTS PERMANENT AND INSTITUTIONALIZING THEM TO ASSURE THAT THE DEPARTMENT OF DEFENSE (DOD) AND AMERICAN TAXPAYER RECEIVE FULL VALUE FOR THE TAX DOLLAR.

THE MILITARY DEPARTMENTS AND THE DEFENSE LOGISTICS AGENCY (DLA), RESPONSIBLE FOR IMPLEMENTING THE IMPROVED PROCEDURES FOR THE ACQUISITION OF SPARE PARTS, ARE TAKING NECESSARY MEASURES. FOR EXAMPLE, THE ARMY TASK EFFORT, IDENTIFIED AS SPRINT (SPARE PARTS INITIATIVES), RECOMMENDED 67 INITIATIVES. THE NAVY TASK EFFORT, IDENTIFIED AS BOSS (BUY OUR SPARES SMART), RECOMMENDED 102 INITIATIVES. THE AIR FORCE MANAGEMENT ANALYSIS GROUP ISSUED THEIR

REPORT LAST OCTOBER AND RECOMMENDED 178 INITIATIVES. DLA HAS ALSO DEVELOPED INITIATIVES. EACH IS NOW IN THE PROCESS OF IMPLEMENTING THEIR INITIATIVES.

WE ARE CHALLENGING CONTRACTOR CLAIMS OF PROPRIETARY RIGHTS IN DATA AND CONTRACTORS ARE BEING COOPERATIVE. A NUMBER HAVE PROVIDED DATA PACKAGES AND RETURNED SOLICITATIONS STATING THAT THE PART CAN BE PROCURED FROM OTHER SOURCES. TO BETTER BENEFIT FROM THE DATA, WE ARE OBTAINING AUTOMATED SYSTEMS THAT ARE DESIGNED TO QUICKLY RETRIEVE AND UPDATE DATA. AT PRESENT OUR DATA PACKAGES ARE STORED IN LARGE DATA REPOSITORIES. TO OBTAIN INFORMATION, WE MUST MANUALLY RETRIEVE THE DATA PACKAGE, REPRODUCE IT, AND MAIL IT OUT. WITH COMPUTERIZED SYSTEMS WE ARE DEVELOPING, THE PROCEDURE WILL BE DONE AUTOMATICALLY. WE WILL EVEN BE ABLE TO DISTRIBUTE ENGINEERING DATA AND DRAWINGS OVER EXISTING TELECOMMUNICATIONS NETWORKS. THIS IS A LARGE EFFORT FOR OUR DATA MANAGEMENT PEOPLE.

AN ISSUE THAT HAS GIVEN RISE TO CONSIDERABLE CONTROVERSY IS PROPRIETARY RIGHTS TO TECHNICAL DATA. THE SECRETARY OF DEFENSE, IN HIS MEMORANDUM OF AUGUST 29, 1983, DIRECTED THE DOD COMPONENTS TO NEGOTIATE DATA PROVISIONS IN CONTRACTS WHICH, AS APPROPRIATE, REDUCE CONTRACTORS' PROPRIETARY RIGHTS IN DATA. FOR THE 2.2 MILLION ITEMS THAT HAVE BEEN SCREENED FOR BREAKOUT, LESS THAN 3 PERCENT ARE IDENTIFIED AS BEING RESTRICTED BECAUSE OF PROPRIETARY CLAIMS. WHILE THE INCIDENCE OF PROPRIETARY CLAIM APPEARS SMALL, THE DOD COMPONENTS HAVE BEEN EXAMINING METHODS THAT WOULD CARRY OUT THE SECRETARY'S DIRECTION.

ANOTHER EFFORT WHICH WE BELIEVE HAS PROMISE, IS TO REQUIRE THAT CONTRACTS FOR DEVELOPMENT INCORPORATE THE DOD PARTS CONTROL PROGRAM. THIS REQUIREMENT PROMOTES USE OF STANDARD PARTS IN THE DEVELOPMENT AND PRODUCTION OF A WEAPON SYSTEM. THIS ALLOWS US TO MAKE LARGER QUANTITY BUYS, REDUCING PARTS COST AND REDUCING THE NUMBER OF ITEMS IN OUR INVENTORY. IT ALSO SUPPORTS COMPETITION BECAUSE WE DEVELOP THE SPECIFICATIONS AND DRAWINGS FOR THESE ITEMS. THE SECRETARY OF DEFENSE, IN HIS MEMORANDUM OF AUGUST 29, 1983, MANDATED THE APPLICATION OF THIS PROGRAM IN THE DEVELOPMENT OF NEW WEAPON SYSTEMS.

TO ENSURE REASONABLE PRICING OF PARTS AT THE TIME OF CONTRACTING, THE DOD COMPONENTS HAVE ALL TAKEN ACTION TO FLAG INCREASES IN PRICE THAT APPEAR OUT OF LINE WITH PAST PRICES. THESE ITEMS RECEIVE MORE INTENSE ANALYSIS TO ASSURE THAT THE PRICE IS REASONABLE. ALONG THESE LINES, WE ISSUED OUR IMPLEMENTATION OF SECTION 1215 OF THE DOD AUTHORIZATION ACT, 1984, IN DEFENSE ACQUISITION CIRCULAR 76-48 THIS MONTH. THE REGULATION PROHIBITS THE PURCHASE OF SPARE PARTS WHEN THE PRICE HAS INCREASED BY MORE THAN 25 PERCENT WITHIN THE MOST RECENT 12 MONTH PERIOD UNLESS THE CONTRACTING OFFICER CERTIFIES TO THE HEAD OF THE CONTRACTING ACTIVITY THAT THE PRICE IS REASONABLE OR THAT NATIONAL SECURITY INTERESTS REQUIRE THE PART BE PURCHASED. OUR REGULATION ALSO EMPHASIZES THAT INCREASES OF LESS THAN 25 PERCENT IN NO WAY RELIEVES THE CONTRACTING OFFICER OF THE RESPONSIBILITY FOR OBTAINING A FAIR AND REASONABLE PRICE.

ANOTHER AREA WHERE WE FOUND A PROBLEM IN PRICING PARTICULARLY SMALL VALUE ITEMS, WAS IN CONTRACTOR COST ACCOUNTING PRACTICES. A NUMBER OF CONTRACTORS UTILIZE COST ACCOUNTING METHODS FOR COSTING PARTS ON AN ITEM BASIS RATHER THAN A VALUE BASIS. EACH ITEM (PART), REGARDLESS OF ITS MATERIAL AND DIRECT LABOR COST, IS ALLOCATED THE SAME COSTS FOR MATERIAL HANDLING, OVERHEAD, GENERAL AND ADMINISTRATIVE EXPENSE, ETC. A 50 CENT PART PURCHASED BY THE PRIME CONTRACTOR FROM A VENDOR AND SOLD TO THE GOVERNMENT WAS BURDENED WITH THE SAME COST AS A $1,000 PART PURCHASED BY THE PRIME CONTRACTOR FROM A VENDOR AND SOLD TO THE GOVERNMENT. THIS GIVES THE APPEARANCE OF LOW VALUE PARTS BEING OVERPRICED AND HIGHER VALUE PARTS BEING UNDERPRICED. THE NET TOTAL COST TO THE GOVERNMENT FOR ALL PARTS PURCHASED IS THE SAME.

WE HAVE DIRECTED THE MILITARY DEPARTMENTS, THE DEFENSE LOGISTICS AGENCY, AND THE DEFENSE CONTRACT AUDIT AGENCY TO UTILIZE VALUE BASED COST ALLOCATION METHODS THAT COMPORT WITH COSTING MORE IN LINE WITH THE INTRINSIC VALUE OF THE PART. WE HAVE ALSO DIRECTED THE USE OF A "MOST FAVORED CUSTOMER ASSURANCE" CLAUSE FOR PROCUREMENTS OF COMMERCIAL TYPE ITEMS. THIS WILL ASSURE THAT WE PAY NO MORE THAN THE CONTRACTOR'S MOST FAVORED CUSTOMER PAYS FOR LIKE ITEMS.

WE ARE ALSO EXPANDING THE SCOPE AND EMPHASIS ON VALUE ENGINEERING TO PROVIDE A VALUE ANALYSIS OF A PART WHEN ITS PRICE APPEARS TO BE EXCESSIVE. TO OBTAIN THIS EXPANDED EMPHASIS, WE HAVE

INCREASED THE NUMBER OF PERSONNEL ENGAGED IN VALUE ANALYSIS WITHIN THE DOD COMPONENTS. WE HAVE ALSO DIRECTED THE INCLUSION OF THE DAR VALUE ENGINEERING INCENTIVE CLAUSE IN ALL CONTRACTS FOR SPARE PARTS AND REPAIR KITS OF $25,000 OR MORE FOR OTHER THAN STANDARD COMMERCIAL PARTS.

ALONG WITH INCREASING OUR TRAINING FOR PERSONNEL, WE ARE REVISING PERFORMANCE EVALUATION CRITERIA TO REWARD ACTIONS THAT INCREASE COMPETITION AND EFFICIENCY AND PENALIZE LESSER PERFORMANCE. I SHOULD ALSO NOTE THAT TO FULLY IMPLEMENT THESE INITIATIVES EFFECTIVELY WILL REQUIRE ADDITIONAL PERSONNEL AND REPRIORITIZING OUR WORK FORCE. WE ANTICIPATE SIGNIFICANT SAVINGS IN THE FUTURE FROM THESE ACTIONS.

THE SECRETARY OF DEFENSE HAS REQUESTED THE DEPUTY SECRETARY OF DEFENSE AS CHAIRMAN OF THE DEFENSE COUNCIL ON INTEGRITY AND MANAGEMENT IMPROVEMENT TO TAKE THE LEAD IN PROVIDING OVERALL GUIDANCE AND COORDINATING THE EFFORTS OF THE DOD COMPONENTS TO REFORM THE MANAGEMENT AND ACQUISITION OF SPARE PARTS. IN SUPPORT OF THIS MANAGEMENT OVERSIGHT, THE PRINCIPAL DEPUTY UNDER SECRETARY OF DEFENSE FOR RESEARCH AND ENGINEERING HAS BEEN HOLDING BIMONTHLY SESSIONS WITH THE DOD COMPONENTS TO TRACK THE PROGRESS OF THEIR EFFORTS AND TO PROVIDE A FORUM TO INTERCHANGE REFORM TECHNIQUES AND APPROACHES.

THERE ARE OTHER ONGOING REVIEWS AND STUDIES. AT THE REQUEST OF THE HOUSE GOVERNMENT OPERATIONS COMMITTEE, WE ARE INITIATING A

STUDY OF THE FEASIBILITY OF ACQUIRING ALL RIGHTS IN TECHNICAL DATA. THE GENERAL ACCOUNTING OFFICE IS AGAIN REVIEWING SPARE PARTS ACQUISITION AND REVIEWING SEPARATELY, AT THE REQUEST OF THE SENATE GOVERNMENT AFFAIRS COMMITTEE, THE DOD REPLENISHMENT SPARES BREAKOUT PROGRAM REGULATION THAT WE ISSUED LAST SUMMER. THE SECRETARY OF DEFENSE HAS DIRECTED THE INSPECTOR GENERAL (IG) TO THOROUGHLY REVIEW THE ACQUISITION OF PARTS. CURRENTLY, THERE ARE OVER 300 DEFENSE AUDITORS ENGAGED IN THIS REVIEW. UNDER PUBLIC LAW 98-191, THE OFFICE OF FEDERAL PROCUREMENT POLICY (OFPP) IS REQUIRED TO REVIEW DOD SPARE PARTS PROCUREMENT PRACTICES AND SUBMIT A REPORT TO CONGRESS BY JUNE 1, 1984. WE ARE REQUIRED BY SECTION 1216 OF THE DOD AUTHORIZATION 1984 TO PROVIDE A REPORT TO CONGRESS ON SOLUTIONS TO SPARE PARTS PROBLEMS BY JUNE 1, 1984. THE SENATE APPROPRIATIONS COMMITTEE REPORT ACCOMPANYING THE DOD APPROPRIATIONS BILL, 1984, ALSO REQUIRES A REPORT TO CONGRESS THIS SUMMER ON PLANS TO ACCELERATE MODERNIZATION OF SPARE PARTS REQUIREMENTS, PROCUREMENTS, AND TECHNICAL DOCUMENTATION SYSTEM.

I HAVE TAKEN TIME TO CATALOG SOME OF OUR ACQUISITION REFORM EFFORTS TO INDICATE THE DEPTH TO WHICH WE ARE COMMITTED TO OVERALL IMPROVEMENTS WHICH WILL HELP INCREASE COMPETITION. ALL OF OUR REFORMS ARE VERY PEOPLE INTENSIVE BUT WE FEEL THIS COMMITMENT OF RESOURCES IS WORTH THE EXPECTED BENEFITS. COUPLED WITH OUR MANAGEMENT INITIATIVES IS OUR SUPPORT FOR IMPROVEMENTS IN OUR BASIC PROCUREMENT LEGISLATION. WE SUPPORT THE CONCEPT OF S. 338 WITH

THE CHANGES WE HAVE RECOMMENDED. WE SUPPORT H.R. 2545. SOME RETRAINING OF THE PROCUREMENT WORK FORCE WOULD BE REQUIRED WITH THESE BILLS. WE HAVE SUGGESTED CHANGES IN S. 338 TO RETAIN PRESENT PROCUREMENT CONCEPTS WHERE THEY ENCOURAGE EFFICIENT AND EFFECTIVE CONTRACTING. IN SUCH A LARGE AND VITAL SYSTEM AS DEFENSE PROCUREMENT, CHANGES MUST BE CAREFULLY CONSIDERED OR WE RISK JEOPARDIZING THE VERY MISSION OF THE DEFENSE DEPARTMENT-NATIONAL SECURITY. WE HAVE DETERMINED THAT CHANGES ARE NEEDED AND THEY ARE UNDERWAY BUT THESE CHANGES MUST BE CAREFULLY CONSTRUCTED.

YOU SHOULD ALSO KEEP IN MIND, WHEN PROPOSING CHANGES TO OUR PROCUREMENT SYSTEM, THAT IT CHANGED ON APRIL 1, 1984. ON THIS DATE, THE FEDERAL ACQUISITION REGULATION (FAR) TOOK EFFECT AFTER FIVE YEARS OF PLANNING AND HARD WORK. HUNDREDS OF PEOPLE HAVE WORKED ON THE WRITING TEAM TO DEVELOP A SIMPLIFIED, UNIFORM SYSTEM OF REGULATION. WE HAVE TRAINED ALMOST 50,000 PEOPLE IN THE WORKINGS OF THE NEW REGULATION. THE PRIVATE SECTOR HAS INVESTED TREMENDOUS AMOUNTS OF THEIR OWN TIME AND MONEY TO PREPARE FOR THIS LONG AWAITED PUBLICATION.

SUCH NEW CHANGES IN THE BASIC PROCUREMENT LAW, AS PROPOSED BY S. 2489, MAY WASTE THIS EFFORT. JUST WHEN THE PROFESSIONAL ACQUISITION COMMUNITY SHOULD BE SETTLING DOWN TO OPERATING UNDER A NEW REGULATION, IT WOULD BE PUT INTO TURMOIL. THE TAXPAYERS MAY NOT REAP THE BENEFITS OF THE PREVIOUS INVESTMENT IN DEVELOPING THE FAR.

HOWEVER, THE THRUST OF THE PROVISIONS OF S. 2489 STRIKE CLOSE TO A NUMBER OF INITIATIVES THAT WE HAVE TAKEN AND I JUST DESCRIBED. WE CERTAINLY DO NOT DISAGREE WITH THE OBJECTIVE BUT SIMPLY ON THE METHODS TO ACHIEVE MORE VALUE FOR THE TAXPAYER WITH ALL ELEMENTS OF INDUSTRY LARGE AND SMALL BEING PROVIDED ENHANCED OPPORTUNITY TO COMPETE IN THE DEFENSE MARKET.

WE EARNESTLY BELIEVE THAT THE PRINCIPAL SUBJECTS IN THE BILL DEALING WITH TECHNICAL DATA AND BREAKOUT IF THEY ARE TO BE ADDRESSED SHOULD BE IN THE FORM OF CHANGES TO THE ARMED SERVICES PROCUREMENT ACT OF 1947. WE ALREADY DEAL WITH A PLETHORA OF STATUTES IMPACTING ON THE PROCUREMENT PROCESS. THE COMMISSION ON GOVERNMENT PROCUREMENT OVER A DECADE BACK FOUND OVER 4,000 LAWS HAVING SOME IMPACT ON PROCUREMENT. LEGISLATIVE SUBJECTS THAT ADDRESS HOW THE PROCUREMENT PROCESS IS TO FUNCTION SHOULD BE CONTAINED IN A BASIC ARMED SERVICES STATUTE.

THE HOUSE ARMED SERVICES COMMITTEE HAS JUST ADOPTED H.R. 5064 INTRODUCED BY REPRESENTATIVE NICHOLS. A NUMBER OF THE PROVISIONS ARE SIMILAR TO S. 2489. CERTAINLY THE OVERALL OBJECTIVE OF THE BILLS TO ENHANCE COMPETITION IN OBTAINING DOWNSTREAM COMPONENTS AND PARTS IS THE SAME. WE PREFER H.R. 5064 TO S. 2489. WE BELIEVE IT WIDER SCOPED AND IT MODIFIES OUR BASIC PROCUREMENT STATUTE.

LET ME NOW COMMENT ON THE PROVISIONS OF S. 2489 AND I WILL

FOLD IN COMMENTS ON S. 2434 BECAUSE ITS PROVISIONS ARE LARGELY DUPLICATED IN S. 2489.

SECTION 3. PLANNING FOR FUTURE REQUIREMENTS

THIS SECTION WOULD REQUIRE IN COMPETITIVE SOLICITATIONS FOR MAJOR SYSTEM DEVELOPMENT AND PRODUCTION CONTRACTS, PROPOSALS TO ENHANCE THE OPPORTUNITY FOR DOWNSTREAM COMPETITION IN THE ACQUISITION OF COMPONENTS OVER THE LIFE OF THE SYSTEM. THE OBJECTIVE OF THIS PROVISION IS IN ACCORD WITH OUR CURRENT INITIATIVES IN REFORMING THE ACQUISITION OF SPARE PARTS. WE HAVE MANDATED THE APPLICATION OF THE DOD PARTS CONTROL PROGRAM IN DEVELOPMENT CONTRACTS. THIS PROGRAM ACCENTS THE USE OF PARTS CURRENTLY COVERED BY SPECIFICATIONS AND DRAWINGS AND AVAILABLE IN OUR SUPPLY SYSTEM OR AVAILABLE COMMERCIALLY IN THE MARKET. WE HAVE ALSO DEVELOPED A "MODEL CONCEPT" TO ENCOURAGE MAJOR SYSTEM CONTRACTORS TO DEVELOP SEVERAL SUBCONTRACT SOURCES AND BREAKOUT ITEMS TO ENABLE SUBSEQUENT COMPETITION IN THE REPLENISHMENT PHASE. WE WILL ISSUE THE APPLICABLE GUIDANCE SHORTLY ON A TEST BASIS. OUR PRINCIPAL CONCERN WITH THIS SECTION IS THAT THE CONCEPT BE TESTED BEFORE BEING MADE PERMANENT BY REGULATION OR STATUTE. FRANKLY, WE DON'T KNOW WHETHER IT WILL BE WORKABLE OR EFFECTIVE.

SECTION 4. ENCOURAGING NEW COMPETITORS TO BROADEN THE INDUSTRIAL BASE

SUBSECTION (n)(1). THIS SUBSECTION REFERS TO PREQUALIFICATION REQUIREMENTS AND PRESUMABLY RELATES TO SPECIFICATIONS CALLING FOR PREQUALIFICATION OF AN ITEM, FOR INSTANCE, QUALIFIED PRODUCTS LIST (QPL). IT REQUIRES AMONG OTHER MATTERS FOR WRITTEN JUSTIFICATION, WRITTEN STANDARDS, AND OPPORTUNITY FOR A PROSPECTIVE CONTRACTOR TO DEMONSTRATE ITS ABILITY TO MEET THE STANDARD FOR QUALIFICATION. IT WOULD ALSO REQUIRE THE AGENCY TO UNDERWRITE THE COST OF QUALIFICATION. OUR CURRENT POLICIES AND PRACTICES ARE CONSISTENT WITH THE PURPOSE OF THIS SUBSECTION EXCEPT AS TO UNDERWRITING THE COST OF QUALIFYING AN UNQUALIFIED ITEM. CURRENTLY, WE WILL UNDERWRITE SUCH TESTING WHERE ADDITIONAL SOURCES ARE DEEMED NECESSARY, E.G., LOWER PRODUCT COST, INDUSTRIAL BASE EXPANSION, NEW PRODUCT WITH HIGHER QUALITY, ETC. IT WOULD, IN OUR VIEW, BE COSTLY TO UNDERWRITE TESTING OF ALL POTENTIAL SUPPLIERS WHO BELIEVE THEIR PRODUCT WOULD BE ACCEPTABLE. COST OF TESTING COULD WELL EXCEED ANY FUTURE SAVINGS THAT MIGHT BE ACHIEVED IF MORE SUPPLIERS WERE QUALIFIED.

SUBSECTION (n)(3). THIS SUBSECTION IS SIMILAR TO SUBSECTION (n)(1) BUT APPLIES TO QUALIFYING ADDITIONAL SOURCES WHEN FEWER THAN FIVE SOURCES ARE CURRENTLY QUALIFIED. ASSUMEDLY, IN THIS CASE, THE AGENCY MUST ALSO BEAR THE COST OF QUALIFICATION IF THE PROSPECTIVE CONTRACTOR IS A SMALL BUSINESS. WHILE MANY OF OUR QPL'S HAVE FIVE OR MORE SUPPLIERS, WE SUGGEST THAT ENCOURAGING ADDITIONAL SUPPLIERS TO QUALIFY WHEN WE ALREADY HAVE ENOUGH MAY BE EXPENSIVE AND TIME CONSUMING FOR THEM AND THE AGENCY. MORE IMPORTANTLY, WE

ASSUME BUT IT IS NOT CLEAR WHETHER THIS SUBSECTION MODIFIES SUBSECTION (n)(1) OR IS AN ADDITIONAL REQUIREMENT. WE SUGGEST THAT THIS SUBSECTION BE DELETED.

SUBSECTION (b)(1)(A)&(C). THESE SUBSECTIONS EXPAND THE NOTICE REQUIREMENTS FOR SYNOPSIZING IN THE CBD TO INCLUDE, AS APPROPRIATE, NOMENCLATURE, STOCK NUMBER, SYSTEM APPLICATION, FORM-FIT-AND-FUNCTION, AND AS AVAILABLE, PROCUREMENT HISTORY, DOLLAR VALUE AND NUMBER OF UNITS PROCURED IN THE PAST TWO YEARS, AND ESTIMATED PROCUREMENTS TO BE MADE THIS YEAR AND THE NEXT TWO YEARS. WE FIND THIS AN ONEROUS AND COSTLY ADMINISTRATIVE REQUIREMENT. IT WOULD BE NEXT TO IMPOSSIBLE TO COMPLY WITH THE INTENT OF THESE PROVISIONS. SOME ITEMS HAVE NUMEROUS APPLICATIONS. PAST HISTORY INFORMATION WOULD REQUIRE CONSTANT TRACKING AND ENHANCED AUTOMATIC DATA PROCESSING CAPABILITY. WITH ANNUAL BUDGETS SUBJECT TO FREQUENT ADJUSTMENT AND USER DEMAND CHANGES, ESTIMATING FUTURE REQUIREMENTS WITH SOME CREDIBILITY IS SIMPLY NOT FEASIBLE AND WOULD CAUSE MANY PROSPECTIVE SOURCES FRUSTRATION AND CONFUSION.

SUBSECTION (b)(1)(E)(6). THIS SUBSECTION WOULD AMONG OTHER MATTERS REQUIRE THE PUBLIC POSTING OF ANY SOLICITATION THAT WOULD HAVE BEEN SYNOPSIZED IN THE CBD IF IT HAD MET THE DOLLAR THRESHOLD FOR SUCH PUBLICATION. CURRENTLY WE POST SOLICITATIONS EXCEEDING $5,000. THIS PROVISION WOULD ENTAIL THE POSTING OF HUNDREDS OF THOUSANDS OF SMALL DOLLAR ACTIONS. THIS WOULD BE IMMENSELY BURDENSOME. WE BELIEVE THE TIME AND COST OF DOING THIS WOULD OFFSET ANY ANTICIPATED BENEFIT.

SECTION 5. TECHNICAL DATA MANAGEMENT TO FOSTER FUTURE COMPETITION

SUBSECTION (o). THIS SUBSECTION REQUIRES THAT MAJOR SYSTEM PRODUCTION CONTRACTS CONTAIN APPROPRIATE PROVISIONS RELATED TO TECHNICAL DATA SUCH AS:

- SPECIFYING TECHNICAL DATA TO BE DELIVERED;
- CRITERIA FOR DETERMINING DATA ACCEPTABILITY;
- SEPARATE PAYMENT LINES FOR DATA;
- SPECIFYING RIGHTS IN DATA;
- JUSTIFICATION FOR ANY RESTRICTION ON DATA ASSERTED BY THE CONTRACTOR;
- SPECIFYING LIQUIDATED DAMAGES IN THE EVENT GOVERNMENT CHALLENGE TO ASSERTED RESTRICTION ON DATA IS SUSTAINED;
- PERMITTING SUBCONTRACTORS TO SELL DIRECTLY TO THE GOVERNMENT; AND
- IDENTIFYING THE MANUFACTURE OF THE COMPONENT.

THIS SUBSECTION MAY BE WAIVED BY THE CONTRACTING OFFICER.

THE GENERAL THRUST OF THIS SUBSECTION IS SIMILAR TO PROVISIONS IN H.R. 5064 INTRODUCED BY REPRESENTATIVE NICHOLS AND ADOPTED BY THE HOUSE ARMED SERVICES COMMITTEE. WHILE WE ARE IN ACCORD WITH THE GENERAL CONCEPT OF THIS SUBSECTION, IT IS DIRECTED AT LESS THAN THREE PERCENT OF THE TWO MILLION SPARE PARTS WE HAVE SCREENED UNDER THE BREAKOUT PROGRAM THAT ARE RESTRICTED BY PROPRIETARY CLAIMS.

ADMINISTRATION OF THIS SECTION WOULD PLACE A HEAVY BURDEN ON OUR CONTRACTING AND DATA MANAGEMENT ACTIVITIES. IT WOULD BE MOST DIFFICULT TO APPLY IN THE NEAR TERM IN ONGOING MAJOR PRODUCTION PROGRAMS. WE RECOMMEND THAT IT APPLY ONLY TO FOLLOW-ON PRODUCTION PROGRAMS OF NEW SYSTEMS UNDER DEVELOPMENT. WE ALSO RECOMMEND DELETION OF THE PROVISION FOR LIQUIDATED DAMAGES. COURTS WILL GENERALLY NOT ENFORCE SUCH A PROVISION OTHER THAN FOR NOMINAL DAMAGES UNLESS THE GOVERNMENT CAN SHOW ACTUAL DAMAGES COMMENSURATE WITH THE LIQUIDATED DAMAGES.

SUBSECTION (b)(1). THIS SUBSECTION REQUIRES A PLAN FOR MANAGEMENT OF TECHNICAL DATA, COMPLETE IMPLEMENTATION OF THE PLAN WITHIN FIVE YEARS, AND A COMPTROLLER GENERAL EVALUATION OF THE PLAN WITHIN 18 MONTHS. THIS SUBSECTION IS SIMILAR TO PROVISIONS IN H.R. 5064 PREVIOUSLY MENTIONED. WHILE THE OBJECTIVE OF THIS PROVISION IS UNDERSTANDABLE, THE TASK IS MONUMENTAL. WE HAVE OVER 200 MILLION PIECES OF TECHNICAL DATA IN OUR REPOSITORIES. BEFORE THE TASK COULD BE ACCOMPLISHED, AUTOMATIC DATA EQUIPMENT WOULD BE NEEDED AS WELL AS ADDITIONAL PERSONNEL. WE HAVE TAKEN THE INITIATIVE TO UPDATE OUR REPOSITORIES BUT IT IS A LONG-TERM PROJECT. WE RECOMMEND THAT ONLY A REQUIREMENT FOR A PLAN BE IN THE LEGISLATION WITH THE PLAN TO DESIGNATE WHEN THE TASK WOULD BE TARGETED FOR ACCOMPLISHMENT.

SECTION 6. VALIDATING PROPRIETARY DATA RESTRICTIONS

SUBSECTION (p). THIS SUBSECTION ESTABLISHES A PROCEDURE FOR REVIEWING AND VALIDATING THE PROPRIETARY CLAIMS ASSERTED BY CONTRACTORS INCLUDING JUSTIFICATIONS, TIME PERIOD FOR VALIDATION CHECK, CERTIFICATIONS FROM CONTRACTORS, USE OF A PRIVATE CONTRACTOR TO REVIEW PROPRIETARY CLAIMS, AND LIQUIDATED DAMAGES AND REIMBURSEMENT OF GOVERNMENT COSTS INVOLVED IN CLAIMS FOUND TO BE UNJUSTIFIED. WE AGREE WITH CHALLENGING CONTRACTORS' ASSERTIONS OF RIGHTS IN DATA WHERE OTHER EVIDENCE INDICATES THE DATA WAS DEVELOPED AT GOVERNMENT EXPENSE OR IT IS OTHERWISE AVAILABLE TO THE PUBLIC. HOWEVER, WE BELIEVE THIS SUBSECTION MAY DISCOURAGE CONTRACTORS FROM USING THE MOST TECHNICALLY ADVANCED COMPONENTS WHERE THERE MAY BE A CONCERN AS TO HOW, WHEN, AND WHO PAID FOR THE DATA DEVELOPMENT. THIS COULD RESULT IN LESS EFFECTIVE MILITARY EQUIPMENT. THIS PROVISION SHOULD ALLOW FOR SOME FLEXIBILITY IN APPLICATION. WE SUGGEST THAT THE PROVISION BE STATED ONLY AS A GENERAL MATTER OF POLICY OBJECTIVE.

SECTION 7. BREAKOUT PROCUREMENT CENTER REPRESENTATIVES

THIS SECTION IS VERY SIMILAR TO THE PROVISIONS OF S. 2434.

SUBSECTION (q)(1)&(2). THESE SUBSECTIONS REQUIRE THE SMALL BUSINESS ADMINISTRATION (SBA) TO ASSIGN A BREAKOUT PROCUREMENT CENTER REPRESENTATIVE TO EACH MAJOR PROCUREMENT CENTER WITH CERTAIN DUTIES. SBA HAS ESTABLISHED A PILOT BREAKOUT PROGRAM AND BREAKOUT PROCUREMENT CENTER REPRESENTATIVES HAVE BEEN ASSIGNED TO FOUR USAF

AIR LOGISTICS CENTERS. WE THINK SBA'S PROGRAM SHOULD BE GIVEN A CHANCE TO WORK BEFORE LEGISLATION IN THIS AREA IS CONSIDERED. IN OUR VIEW, ADMINISTRATIVE ACTION, WITH ITS ATTENDANT FLEXIBILITY, IS PREFERABLE TO CREATING A RIGID STATUTORY SCHEME.

SUBSECTION (q)(3). THIS SUBSECTION REQUIRES EACH AGENCY TO ASSIGN TECHNICAL ADVISORS TO SUPPORT THE BREAKOUT PROCUREMENT CENTER REPRESENTATIVE. WE FIRMLY OPPOSE STATUTORY REALLOCATION OF TECHNICALLY QUALIFIED AGENCY PERSONNEL RESOURCES FOR THE EXCLUSIVE PURPOSE OF SUPPORTING SBA EMPLOYEES. IN OUR VIEW, THIS WOULD BE WASTEFUL AND FURTHER ACCENTUATE THE CURRENT SHORTAGE OF QUALIFIED TECHNICIANS AND ENGINEERS IN THE MILITARY DEPARTMENTS.

SECTION 8. DEFINITIONS

SUBSECTION (j). THIS SUBSECTION PROVIDES DEFINITIONS FOR (1) COMPONENT, (2) MAJOR PROCUREMENT CENTER, (3) MAJOR SYSTEM, AND (4) TECHNICAL DATA. DEFINITIONS ARE ALWAYS MOST DIFFICULT TO ASSURE THEY DESCRIBE ACCURATELY AND COMPLETELY WHAT IS AND IS NOT INCLUDED. WE SUGGEST THAT DEFINITIONS BE LEFT TO AGENCY REGULATORY GUIDANCE.

THIS CONCLUDES MY STATEMENT AND I WILL ENDEAVOR TO ANSWER YOUR QUESTIONS.

Senator NICKLES. Our next panelist we have is Mr. Stuart Evans, Assistant Administrator for Procurement for NASA.

Mr. Evans.

STATEMENT OF STUART J. EVANS, ASSISTANT ADMINISTRATOR FOR PROCUREMENT, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Mr. EVANS. Thank you, Mr. Chairman. We appreciate the invitation you afforded us and the opportunity to be here today. As you requested, I will summarize my statement rather briefly and request that the full statement be placed in the record. You will note in that statement there are approximately 10 pages of detailed comments on the bill. However, I would prefer to summarize it with respect to our views in regard to the applicability of this bill to the types of systems we have.

In the chairman's letter to us and in his opening statement on the floor in introduction of S. 2489, it was evident to us that a major concern of this committee lay in the spare parts problem of the Department of Defense, and in inviting us here we were asked to comment upon whether or not the provisions of these bills would enhance the competitive acquisition of requirements for maintenance of our systems. On balance, we do not think they will. The reason for it is that NASA's systems, I think, are sufficiently different from those envisioned within the provisions of this bill that they do not fit.

Let me give you some examples. The overwhelming majority of our systems are spacecraft; and, in spacecraft sparing takes two forms: We will concurrently prepare two spacecraft. One is a backup against failure or abort upon launch. We also will provide spares of major components of those spacecraft in the event of failure during test and evaluation prior to launch. We used one of those spares yesterday in *Challenger* at 300 miles up, in repairing the solar maximum spacecraft. That is an example of our sparing.

For the majority of the spacecraft that are beyond the reach of the orbiter, we don't spare at all. We have no repair stations on Mars, Jupiter, or Uranus, yet.

Senator NICKLES. Yet?

Mr. EVANS. Hope springs eternal.

The example you saw yesterday is one of the maintenance efforts we hope to increase in the future and that is, for spacecraft in orbit within reach of our space transportation system, we are attempting to recapture, repair, and redeploy without bringing back to Earth. The cost effectiveness of that is amazing. This is what occurred yesterday, and quite successfully.

Perhaps the one system, however, that the provisions of this bill might apply to is our space transportation system. It is this model before me here. Within the definitions of the bill, it has three major subsystems or components: The orbiter, which is approximately the size of a DC-9; the large central external tank here, which is 154 feet long and about 27.5 feet in diameter. It provides the liquid hydrogen and liquid oxygen for the main engines. It is not recovered. Upon deployment, it reenters the atmosphere and generally burns up over the Indian Ocean. The other two components are, on the side, the major solid rockets and they are 14 feet in diameter and approximately 147 feet long. Those are recovered out over the Gulf Stream, towed back in to the Kennedy Space Center, cleaned, refurbished, reloaded, and reused, so those are the major systems or major subsystems, I should say. We do not "spare" the orbiter in the classic sense at all. We do not have a supply system. We don't have inventory control points. We don't have a worldwide logistics net. It is a highly focused program. From the standpoint of orbiters, our fleet consists of three, with a fourth to be delivered in November. They are all different. They have evolved one from the other as technology has permitted us to upgrade.

In the maintenance between flights of the orbiter, several functions occur. First, if any major system—such as perhaps the orbital maneuvering pods or the auxiliary power systems—showed any anomalies in flight, we will pull the full system. It is taken back to the manufacturer and subjected to extensive test analysis and review. We often experience some damage to the thermal protection system, both on launch and occasionally upon recovery. We will replace what would fit the bill in definition of spare parts. You have one there, before Bill Montalto. That is a nose tile from *Columbia.* We have occasion to replace a number of those after each flight, depending upon the conditions. There are 34,000 of those on the orbiter. Every single one of them is precisely fitted. They are absolutely critical to the mission of the orbiter, particularly upon reentry, because failure in those would be catastrophic. The bulk of the effort beyond replacement of major systems, when we prepare the orbiter for launch, will be reconfiguration for the next payload. When that occurs, the balance of the operation is a stacking effort whereby these large solid rocket motors are mated to the external tank and the orbiter is mated finally to the tank itself. That provides the system.

As I examine the provisions of this bill against the one major system I see to which it would apply, the situation and conditions with respect to the spare transportation system in our opinion are so different from those envisioned in the bill, that we don't see a fit.

With respect to procurement center representatives, NASA does not do within the agency itself the sustaining engineering and detailed configuration control on its systems. That is done by its contractors. That is not to say that all the effort of those contractors is not penetratingly reviewed, analyzed, examined, and tested. It is. My point is that were we to have a system of spare parts, we do not have the capability of handling the amount of technical data that would be involved from the standpoint of competitive procurement purposes.

The other concern we have, and it is an absolutely overriding concern, is one of safety. Failure on that system of relatively small parts could be catastrophic. I will cite you one or two cases. We have essentially two qualified products lists. One is for igniters. We use those to separate these solid rocket motors from the external tank. They absolutely must fire on time, every time, and precisely as programmed. The same is true upon launch and ignition of the solids rockets. Were they to malfunction: One solid to fire and the other not, you would have the world's largest pinwheel. You would have a catastrophe. The overwhelming focus of the agency is on reliability, safety, and performance. We have one other qualified products list, and that is in microelectronics, and that is, likewise, critical to the orbiter. It is also equally critical to our spacecraft. We, therefore, place a maximum amount of effort on quality control, quality assurance, and performance. We cannot afford to do otherwise.

It is difficult for me to see where a procurement center representative would fit into the system that we have and do something meaningful for us. None of the components of this system stand alone. None of the components of this system are changed, either in terms of material, in terms of processing, manufacture, or source, without great consideration of the interrelationship to other systems. To that extent, we are aware, of course, that the SBA has a pilot program of procurement center representatives, and we feel that that program should be given an opportunity to demonstrate itself. Let it be evaluated. Determine where it fits, and apply it on a case-by-case basis.

In summary, Mr. Chairman, after very serious consideration of these bills and applying their provisions to the one system I see that might even possibly come close to fitting, I cannot support the bills with respect to their application to our space transportation system. That concludes my statement, sir.

Senator NICKLES. Thank you very much, Mr. Evans.

Senator Gorton, we are pleased that you would join us this morning. Did you have any opening remarks you wished to make?

Senator GORTON. No, Mr. Chairman.

Senator NICKLES. Well, thank you for your attendance.

Our next panelist that we have is Mr. Barnett Anceleitz, Director of Installations and Logistics, Department of Transportation.

STATEMENT OF BARNETT M. ANCELEITZ, DIRECTOR, INSTALLATIONS AND LOGISTICS, U.S. DEPARTMENT OF TRANSPORTATION

Mr. ANCELEITZ. Good morning, Mr. Chairman. I am pleased to be afforded the opportunity to present the views of the Department of Transportation on the two bills under consideration today. In keeping with your request for brevity, I will summarize my remarks——

Senator NICKLES. Thank you very much.

Mr. ANCELEITZ [continuing]. And deal specifically with what we see as the principal provisions of the two bills.

First, by way of overall comment, we believe that most of the provisions of these bills could be handled preferably by regulation rather than by statute, and we would prefer to see the changes incorporated in that manner.

Now addressing the specific provisions, sir, S. 2489 encourages competing major contractors to include in their bids specific proposals to make the competitive procurement of future spare parts requirements possible. We have no objection to the intent of this provision, as it provides adequate flexibility for use under different acquisition strategies. We believe that it will enhance competition for spare parts contracts and that it will create additional opportunities for small business. These are goals which the Department has consistently pursued during its years in existence.

S. 2489 requires agencies using prequalification requirements, a major barrier to small business competition, to justify the need for prequalification and specify the qualification standards that must be met and to provide assistance to small business concerns seeking to qualify themselves or their products. DOT rarely uses qualified products lists. As a matter of fact, I can only think of a few instances in my 10-year tenure in this office where we have used it. Therefore, these provisions of the bill would not have a major impact on our operations.

However, we believe that the Federal Acquisition Regulation contains adequate safeguards against improper use of the qualified products list, and we do not see the need for this coverage in statute. The requirement that an agency must waive testing or bear the cost of testing products submitted by a small business when fewer than five firms or products are on the QPL would place a burden on the agencies, and we do not recommend the adoption of this requirement.

The bill imposes new and expanded synopsis provisions by adding requirements for new data to be placed in the Commerce Business Daily. We do not support this provision, which would impose substantial new synopsis requirements on the agencies for most purchases in excess of $10,000. Besides increasing the length and complexity of every synopsis and substantially expanding each issue of the Commerce Business Daily, we question the value of this information for most potential offerors who are already familiar with their industry.

S. 2489 requires that in certain cases the Government obtain technical data suitable for the competitive procurement of future spare parts requirements necessary to maintain the major systems which it purchases. We support the thrust of this provision. However, the bill would provide varying rights in the data, depending on whether the data was developed at Government expense as defined by each agency. This, we feel, is unsuitable. To leave the definition with each agency would serve to confuse those contractors that deal with more than one of us, and would require those contractors to be certain not only to apply the proper definition but also to apply the particular agency's interpretation of its definition.

S. 2489 specifies procedures to be undertaken to validate the legitimacy of proprietary data claims asserted by contractors, and it provides for the establishment of a system of financial disincentives to deter contractors from asserting unwarranted claims for proprietary data. We support this provision. While predetermination of rights can be time-consuming and difficult, a statutory provision covering the challenges to the status of delivered data might well prove useful.

Both bills would expand the Small Business Administration's pilot breakout procurement center representatives program and would specify the representatives' authority and responsibility as advocates for competition. We have no objection to SBA assigning breakout procurement center representatives to DOT's contracting centers. We believe, however, that this should be done administratively and not legislatively.

I understand that SBA has a pilot breakout program underway. In my view, this program should be given a chance to work and be evaluated before Congress considers legislative action. In addition, we object to the requirement that the primary duties of the DOT technical advisors assigned to assist the breakout PCR be just that—to assist them. It would be preferable to assign this function, we believe, as a collateral duty in the vast majority of cases. Such a method of assistance would provide better quality advice to the breakout PCR and would impose a substantially lesser burden upon the Department.

With the exceptions noted, I believe that S. 2489 and S. 2434 address many problems associated with procurement. I want to reiterate my belief, however, that most of the problems that the bills are intended to address can be dealt with administratively.

Thank you again, Mr. Chairman. This concludes my statement.

[The prepared statements of Mr. Evans and Mr. Anceleitz follow:]

NASA
National Aeronautics and
Space Administration

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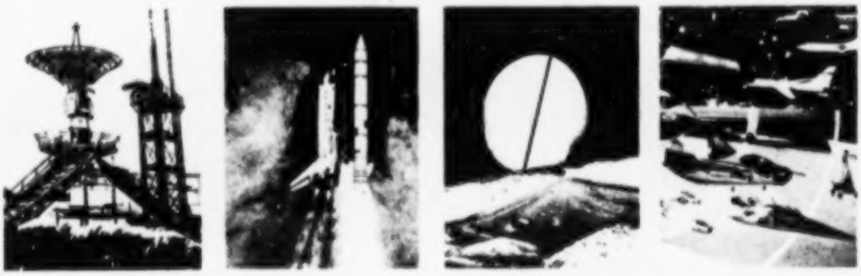
Presented by Witness

APRIL 12, 1984

Committee on Small Business

United States Senate



Statement by: **Stuart J. Evans**
Assistant Administrator for Procurement

98th Congress

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PRESENTED BY WITNESS

STATEMENT OF
STUART J. EVANS
ASSISTANT ADMINISTRATOR FOR PROCUREMENT
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
BEFORE
THE COMMITTEE ON SMALL BUSINESS
UNITED STATES SENATE

APRIL 12, 1984

Mr. Chairman and members of the committee:

We appreciate the opportunity to present NASA's views on S. 2489, the "Small Business Competition Enhancement Act of 1984," and S. 2434, "A bill to amend Section 15 of the Small Business Act by requiring the assignment of breakout procurement center representatives at major procurement centers."

S. 2489 would amend Section 15 of the Small Business Act to encourage the design and production of major systems using components which are already in the supply system and can be later purchased competitively. To further aid small business, agencies would be required to take new steps in using qualified bidder or product lists, and in helping small business enter those lists. Other major provisions of the bill include expansion of the synopsis program and provisions in major systems contracts for the Government to acquire technical data. S. 2434 is concerned with the establishment or function of breakout procurement representatives.

We share your concerns regarding the ability of small business firms to meaningfully compete for Government contracts. The committee knows it is NASA policy to place a fair proportion of our total procurement dollars with small business and to ensure that small business concerns have an equitable opportunity to participate in NASA programs. There are a number of ways in which we as an Agency assist the small business community to participate in NASA programs and have discussed them with the committee on several prior occasions. On balance we believe we have been highly successful in our efforts.

The Chairman's invitation to us to testify today makes evident that one of the major concerns of the Committee focuses upon the "spare parts problem" in the Department of Defense. You further indicated that committee reviews made clear that bringing greater competition to the acquisition of these "spares" requirements will be mutually beneficial to the Government and the small business community. Finally, you have asked us to comment upon the provisions of these bills in terms of whether their enactment would enhance present and future opportunities for the competitive acquisition of requirements needed to maintain NASA's major systems.

With the exception of some computational and information processing systems which fall under the purview of 40 U.S.C. 759, the Space Transportation System is currently the only NASA major system which would fall under the provisions of these bills. Other major systems are comprised of one or two spacecraft which, by their nature, are not "spared" or supported in the manner assumed by the bill. "Sparing" a spacecraft normally takes the form of providing a complete backup spacecraft or certain major subsystems produced concurrently to be used in the event of launch/deployment failure or major component failure in prelaunch test and checkout. Once launched, of course, many of our spacecraft cannot be retrieved for repair.

In the case of those spacecraft at attitudes reachable by the Space Shuttle, such as the Solar Max Mission spacecraft, our objective, wherever possible, is to change instruments or spacecraft modules in orbit to avoid the expense of returning the system to earth and subsequently relaunching it. Such repair effort was a major objective of this week's Shuttle flight and involved major component replacement on orbit. The failed components will be returned to earth for test, analysis and repair. Thus, for the majority of our systems, we have no spares provisioning process, inventory control points, supply system or a logistics system assumed by the bill.

The major system most closely resembling that assumed in the bill is the National Space Transportation System, yet, even here the differences are manifold. Our "fleet" consists of but three orbiters with the fourth to be delivered later this year. Each orbiter has been upgraded from its predecessor as technology has evolved. Thus, the orbiter is not a "production" article but a one of a kind item. To support this fleet we have only six spare main engines...the largest most powerful, complex cryogenic engines ever built. These engines themselves are constantly being upgraded and modified to improve reliability and we, therefore, do not maintain an inventory of spare parts in the classic sense.

Prior to each mission the orbiter is processed at the Kennedy Space Center in preparation for the next launch. This processing consists of replacing major components where anomalies have been experienced on the previous mission, replacing thermal tiles where damage has occurred, reconfiguring the orbiter for the payloads to be launched, and mating the orbiter to an expendable external tank which provides liquid hydrogen and oxygen for the main engines, and to the 12-foot diameter reusable solid rocket boosters.

In our view, these two bills take their departure from a specific view of major systems procurement. All of S. 2434 and four of the five operative areas in S. 2489 address the non-competitive aspects of spare parts procurement by focusing on those major systems that require such spare or replacement parts. While aimed primarily at defense systems, the dollar criteria of S. 2489 includes major civilian systems as well. The character, deployment and maintenance conditions envisioned by the bill are so different from NASA conditions that the remedies to the "spare parts" problem proposed in these bills do not, in our judgment, fit our situation.

The proposed legislation aims at improved procurement practices of major system spares as well as more small business participation. These aims are to be accomplished by giving evaluation weight to offerors for proposing certain major system design and production features, by ensuring that data is available for competitive spares purchases, and by creating the post of breakout procurement center representative. We are unable to relate these aims and provisions to NASA's Space Transportation System. In our judgment a system such as the Space Transportation System (STS) is not what this legislation appears to contemplate.

The uniqueness of the STS extends to how it is designed, how it is bought, and how it is managed. As a manned vehicle, all components and subsystems are subjected to the highest level of quality assurance and reliability...since failure of a mission can have catastrophic consequences. In STS acquisition (which is essentially complete) and processing, we cannot foresee an effective role for a procurement center breakout representative. Most of NASA's system sustaining engineering and configuration control is done by our prime contractors who have system responsibility. While these efforts are rigidly reviewed and monitored by NASA managers and engineers, the daily work and technical documentation is a contract effort. Experience has taught us the STS is such a complex, interrelated system that changes in material, manufacturing processes, specifications or sources must be subjected to the most rigid test analysis, qualification and evaluation to assure proper, safe, reliable performance of the system as a whole. Under these conditions it is difficult to visualize how and where an SBA breakout representative could inject himself in this process in a meaningful way. Even normally mundane items must meet special standards; it is the reliability of these articles - wires, screws, bolts, etc., which often determine the success or failure of a mission involving millions of dollars and human safety.

The data provisions of these bills are also incompatible with the design and configuration management methods of the STS. NASA historically has required its primes to maintain related component data. This assignment of responsibility both fosters economy and provides a single point of accountability/responsibility for a successful system.

The evolving nature of the STS also leaves us with no choice in this technique for managing data. The STS and its major components are still, and will continue to undergo design refinement to improve performance and reliability. NASA's ability to place design responsibility, sustaining engineering and configuration control with its STS contractors means that management can respond more quickly to engineering requirements. This is especially important in responding to private interests which depend on the consistency and regularity of the STS program. We believe that the provisions of S. 2434 and S. 2489 would substantially adversely impact the flexibility that the STS engineering effort requires.

In summary, we believe that NASA systems are not compatible with the objectives of this legislation which essentially addresses a different condition and issue. S. 2434 and S. 2489 have developed what appear to be positive approaches to a specific type of breakout and spare parts problem. For this reason, we cannot support the provisions of this bill as applicable to NASA systems. My detailed comments are attached.

My formal statement is concluded. I will be pleased to answer any questions the committee may pose.

DETAILED COMMENTS

S.2489

Section 3 - Planning for Future Competition

The legislation would amend Section 15 of the Small Business Act by adding a new paragraph (m) to require that competitive major systems solicitations contain certain evaluation criteria that are accorded weight to the maximum extent practical. In procurement of development contracts, appropriate consideration would be given to proposals that would (1) incorporate currently available components in the major system design, and (2) incorporate components whose associated technical data will permit the agency to competitively acquire components to be used in substantial quantity during the system's service life.

In our view, these criteria can serve to inhibit technology advancement in the development of major systems. While the incorporation of residual components or existing hardware in new systems is done wherever technical/cost considerations point to their use, excessive emphasis on such a practice for purposes of competition enhancement can distort the objectives of the development.

The next provision of the legislation (unnumbered paragraph) refers to the five evaluation criteria to be used in competitive contracts (sections 15(m)(1) and (2)) and imposes the same criteria on noncompetitive negotiations as negotiation objectives. These objectives may be waived only by written determination of the contracting officer. Except for the fact that they are applied as negotiation criteria and not evaluation considerations, these objectives are not suitable to NASA for the reasons stated above and in our testimony.

Section 4 - Encouraging New Competitors to Broaden the Industrial Base

This section further amends Section 15 by adding a new paragraph (n) that imposes restrictions on the use of prequalification for sources or products. The restrictions take two forms, i.e., five steps any Federal agency must take before using prequalified sources and two procedures to be undertaken if there are fewer than five qualified sources or products that are available for "active" competition.

Without reference to any individual requirement imposed by the legislation on prequalification of sources or products, we are concerned as to the tone of new Section 15 (n). Prequalifications stand as fair, useful mechanisms for obtaining critical products. They are procedures that have received the approval of the Comptroller General. None of this validity is reflected in the legislation which gives the impression that the procedure unfairly restricts competition to the detriment of firms not already qualified. In certain instances, prequalification is critical to NASA. We only resort to this mechanism where flight or crew safety, or critical mission objectives are involved and then only with the approval of NASA top management.

With regard to the specific provisions, we believe that the Federal Acquisition Regulation already contains numerous adequate safeguards against abuse of qualified products lists (FAR Subpart 9.2).

We question the advisability of the requirement (section 15(n)(C) that would force an agency to divert resources in order to help a firm or its product be placed on a qualified list. The thrust of this provision would, by law, require an agency to examine any firm that contends it can qualify.

The requirements of sec. 15(n)(3) place an additional burden on any agency using less than five firms or products on a qualified list. Among these individual procedures is the one requiring the agency to waive or bear the cost of conducting the test and evaluation of the product of a small business. Further, the agency could fund, before or after testing, the small business' costs of producing the component to be tested.

In our opinion, economic and efficient procurement would not result from use of these funding procedures. Since they would be used even if four sources or products were available, under this condition these provisions would not offer a significant widening of competition for any item. And any prospective economy would have to be measured against the Government's contribution to the costs of producing and testing the component. We also question the fairness to those firms that have already borne or will bear the expense of qualification.

We are also concerned that this provision has not factored in the highly technical nature of the items that may appear on qualified products lists. There are often market situations where only a few firms may possess the resources and technical expertise to manufacture items that meet the exacting needs of the space environment. To establish four firms as the threshold for triggering efforts to enlarge the list of suppliers means that an arbitrary number can cause a considerable administrative effort. The number has no apparent basis when considered on an industry-by-industry basis. That is, in a given field, there may be few or many suppliers. We believe the provision should be removed.

The next part of Section 4 offers a series of amendments to paragraph 8(e)(3) of the Small Business Act. The present paragraph, inserted by Public Law 98-72, lists the data to be included in a synopsis. The new draft legislation would greatly expand the data that must be included to describe each proposed procurement over $10,000.

We strongly oppose these new synopsis provisions. It is very necessary that an accurate projection be made of their effect, including the cost, effort and time required to carry them out. We believe such a projection will show an unacceptably large effort. For example, for every purchase over $10,000, the Commerce Business Daily (CBD) would have to reflect a procurement description so lengthy that it would multiply the size of every synopsis, with a corresponding expansion of each issue of the CBD. We also question the worth of this mass of data to the majority of prospective offerors who, it is assumed, already know the elemental structure of trade in their respective industries.

The next provision (Section4(b)(6)) should also be deleted. It reinforces and may partially duplicate Section 223 of Public Law 95-507. Agencies would be required to post "in full text or abstract format" every solicitation below $10,000 that is not otherwise exempt from the synopsis requirement. This should be deleted from the bill since it would require a significant increase in administrative burden with no discernible benefit. For example, in the case of procurements that would be quickly bought through oral solicitations, a new piece of paper would have to be produced and posted. We believe that provision would have no practical effect in this instance. The item described on the notice board would no longer be needed by the time it is displayed. Here again, we see no useful purpose being served by this exercise.

Section (b)(2) of S.2489 would expand the mandatory small business subcontracting policy and basic clause (Section 8(d) of the Small Business Act) to include any small business concerns owned and controlled by socially and economically disadvantaged individuals when contracting for "prime contracts and subcontracts for appropriate portions of subsystems, spare parts, and services for major systems." As with previous provisions, no advantage would accrue to procurement through enactment of this requirement.

Sections 5 and 6 - Technical Data Management to Foster Future Competition and Validating Proprietary Data Restrictions

General

The following are comments on the "technical data" provisions of the subject bill, particularly Sec. 5 and Sec. 6 thereof. In the main, many of these provisions are only a statement of rather routine management and procurement approaches that should be handled as an internal matter, and not be subject to regulatory-like statutory requirements. However, this regulatory-type approach does contain some new provisions that could impose burdensome and costly procedures of questionable effectiveness on NASA and its contractors to solve perceived problems that have not to date been demonstrated to exist within NASA in the first instance; would require additional resources and expertise that are simply not available to solve this nonproblem; would disrupt and delay the acquisition process; would impose on NASA, in the form of micromanagement, new data policies and procedures that are inconsistent with NASA's long-established policies and procedures that have served NASA's mission and programs well. Our assessment is that in the long range these new policies and procedures would be a disincentive for contractors to make new and innovative technology developed at private expense available for use in NASA programs.

One of the difficulties in making the above assessment is that many of the "technical data" provisions in S.2489 are ostensibly limited to either a "major system" acquisition or to "production" contracts, and the maintenance thereof, and it is not at all clear to what extent, if any, they would apply to NASA programs.

The reasons for much of NASA's concerns over the data provisions of S.2489 stem from the fact that, as a research and development agency, NASA does not become involved in "production contracts," nor in major system acquisitions that would require volume reprocurement for spare parts or maintenance. Also, when NASA programs reach operational maturity, the possibility exists that they be available for use by private sector or that they may even be turned over to the private sector. Thus NASA's data policies, which have evolved and been refined over the past two decades, are structured to strike a balance between maximizing the protection of private investment and assuring that NASA-funded technology is appropriately utilized.

NASA therefore feels that in this environment competition and expansion of the nation's industrial base will be best served by assuring the availability and appropriate use of NASA-funded technology and by not compromising private proprietary interests. S.2489 places much more emphasis on the latter than the former.

In recognition of the foregoing, NASA's data policies and procedures are to normally acquire data first produced in the performance of a contract without restriction regarding its publication, use or disclosure (i.e., with unlimited rights). This, in turn, enables such data to be used for competitive procurement when necessary. It is also NASA policy not to acquire certain "protectible" or limited rights data (i.e., data resulting from private investment) unless necessary, but if necessary to acquire such under express agreement or understanding not to use or disclose it in a manner that would compromise its private commercial value (i.e., to acquire it with limited or restricted rights for Government use only). Care is taken to agree to protect only that data which can be protected under law, but once agreed to, maximum protection is assured. However, in order to minimize administrative burdens and legal risks, as an overriding consideration it is NASA policy not to acquire protectible or limited-rights data unless there is a real need for it.

The following are specific comments on the data provisions of sections 5 and 6 of S.2489, with a citation of where present policies, procedures and clauses address the particular issue under the NASA Supplement to the FAR dealing with data rights (18-27.4 and implementing clauses under 18-52.227).

Specific

SEC. 5(a) TECHNICAL DATA MANAGEMENT
TO FOSTER FUTURE COMPETITION

As to the following proposed subparagraphs to be added to section 15 of the Small Business Act by added new subsection (o)--

(1) All NASA contracts specify the data that is to be delivered under the contract, and the delivery schedule therefore. This is not treated any differently than any other items to be delivered, whether hardware or data. Also, where appropriate a provision is included for the deferred ordering of unscheduled data. Special provisions for the deferred delivery of scheduled data (as distinguished from deferred ordering of unscheduled data) is deemed unnecessary in that this is merely a scheduling matter to be handled by routine contract administration. NASA's policies and procedures in this regard is covered in the NASA FAR Supplement (NFS) 18-27.474, Acquisition of data, and the clause at 18-52.227-76, Additional Data Requirements.

(2) No need is seen for any statutory requirement to establish criteria for determining the acceptability of data delivered under contract. No reason is seen for treating data any differently than any other item to be required to be delivered under contract: either the item delivered meets contracts requirements (and whatever specification is included in the contract) or it doesn't. This is a contract administration and monitoring matter that should be handled by internal management procedures.

(3) It is highly questionable whether establishing a statutory requirement for separate payment lines for the delivery of data, or the authorizing of withholding payment for non-delivery, is either needed or effective. Again, this begs the question as to why data items scheduled for delivery should be treated any differently than non-data items.

(4) All NASA contracts contain clauses regarding the respective rights of the Government and the contractor or subcontractor regarding data produced, furnished or acquired under contract. This need is addressed in some detail in NFS 18-27.473, Proceedings. No need is seen, however, to specifically define the phrase "developed at private expense." The reason is, this is essentially a judgment call based on the particular facts involved and the specific clause under which the issue arises. For example, depending on the particular clause in the contract, the term "developed" could apply to either the data, or an item, component or process to which the data relates. There is no unanimity on this issue, and no reason is seen why a particular approach should be solidified by statute.

(5) No need is seen, under NASA policies, procedures and practices, to "predetermine" the rights to data to be delivered under most contracts. Such a requirement has the potential of creating far more administrative burdens and delays than benefits to be derived. It is useful, however, to require an offeror to state in responding to a solicitation, to the extent feasible, whether limited-rights or restricted-rights data is likely to be used in meeting the data requirements set forth in the solicitation. This will assist in determining whether there is a real need for calling for the delivery of such data. This requirement is discussed in NFS 18-27.473, Procedures, and implemented by the solicitation provision at 18-52.227-15, Notification of Limited-Rights Data and Restricted Computer Software.

(6) In view of (5) above, the requirement that a contractor justify in advance of delivery any restriction to be placed on data is not needed. It is also objectionable in its own right in that it can create extreme burdens on a contractor to justify an assertion that may not ever be challenged or challengable.

(7) Any requirement based on the premise that the Government needs to "contract-out" to make a decision that is the Government's responsibility is considered objectionable, per se, without further comment.

(8) A requirement that a contractor be assessed liquidated damages if the Government's challenge to the contractor's assertion regarding limited-rights data is sustained is highly objectionable. The message given to contractors by such a requirement is, when in doubt, compromise an agreeably valid proprietary interest. The message given to the Government officials is, take the easy way and challenge. This clearly will be a disincentive for contractors to apply innovative technology to NASA's programs.

(9) As understood, this requirement is highly objectionable in that it appears to require a compulsory, royalty-free license for the use of a contractor's property right in non-patented subject matter (i.e., a trade secret) in the performance of a Government contract. As such, the value of a contractor's privately-developed proprietary interest is diminished when contracting with the Government, another disincentive for contractors to apply innovative technology to NASA's programs.

(10) While there is no objection to the intent of this provision, it is not a data rights or data management issue, and is best addressed elsewhere on its own merits. Also, it is unclear whether the "restriction" referred to relates to the sale of end-item components, or to any intellectual property rights associated therewith.

(11) The need for this provision as a general requirement is questioned; it will create administrative burdens for the contractor, the cost of which will be passed on to the Government.

(12) The need for this provision as a general requirement is questioned; it will create administrative burdens for the contractor, the cost of which will be passed on to the Government. It is also not a data rights or data requirements matter, and is best addressed elsewhere on its own merits.

(b) This entire paragraph is objected to. It will require an extremely burdensome and costly system to be established, the effectiveness of which is highly questionable. Some of the requirements can be handled by internal management procedures as needed; other requirements are unnecessary micromanagement.

SEC. 6. VALIDATING PROPRIETARY DATA RESTRICTIONS

This entire section is objected to because it (a) is not needed; and (b) as written contains some requirements that will be a disincentive for contractors to apply innovative privately developed technology to NASA programs.

As to its need, NASA's present regulations and contract clauses contain procedures under which unauthorized markings on data may be challenged and removed if appropriate, as well as procedures under which omitted or incorrect markings may be added or corrected. The procedures are set forth in NFS 18-27.473, and the specific clause provisions are paragraphs (e) and (f) of the clause at 18-52.227-14. In developing such procedures and clause provisions, a balance has been made between the Government's needs, the contractor's rights, and the administrative practicality of the process. These needs and practicalities can change with time and as experience is gained, and agencies must have the flexibility to revise their regulations accordingly. Thus while there is no objection to the fact that the subject should be addressed in agency regulations, NASA objects to the specific, regulatory-type language in Sec. 6. as unneeded micromanagement.

Also, subparagraph (p)(6) is highly objectionable in that it is a punitive provision that will be a disincentive for contractors to apply innovative privately-developed technology to NASA programs. The whole issue of the appropriateness of applying restrictive markings to data involve complex factual and legal questions over which there may be reasonable disagreement, which may not be resolved until there is a final judicial determination. If in addition to losing valuable rights, a contractor is to be held liable for liquidated damages and the Government's costs for making the wrong judgment call in attempting to protect its investment, the tendency will be not to apply the best and most innovative technology to Government programs rather than to risk such punitive consequences.

OTHER PROVISIONS

In addition to Sec. 5 and Sec. 6., above, there are numerous other provisions in S.2489 relating to "technical data" that are either not needed or are objectionable. These include provisions found on that subject in Sec. 3., Sec. 4., Sec. 7., and Sec. 8. They are all, to some extent, interrelated with Sec. 5. and Sec. 6. Since, however, NASA's position is that Sec. 5. and Sec. 6. are either not needed or are objectionable as applied to NASA's missions and programs, such that NASA should be excluded therefrom, no specific comments will be made other than some observations on the definition of "technical data." As to that definition, NASA finds it both too limiting and unnecessarily complex, and not adequate to cover the entire spectrum of NASA's acquisition process. Also, inherent in any definition relating to data rights policies and practices is the conceptual approach upon which such policies and practices are founded, and the definition used in S.2489, as well as the context it is used in Sec. 5 and Sec. 6., is inconsistent with NASA's long-established policies and practices. Thus if such a definition, and all its ramifications, were made applicable to NASA, NASA would be forced to develop dual policies and regulations to cover the same subject matter: One for those contracts within the ambit of S.2489, and for all other contracts.

Section 7 - Breakout Procurement Center Representatives

Our strongest objections are reserved for the proposed new paragraph (15)(q) of the Small Business Act, i.e., the creation and function of the breakout procurement center representative. This representative would be appointed not by the procuring agency, but by the Small Business Administration. He would be placed at the highest management level of every major procurement center, would have access to procurement data, and would be empowered to substitute his judgment for the discretion of center management. Although he would participate in management council (or equivalent) meetings only when the maintaining of a major system is under consideration, the other named functions empower him to delve into all agency data (not only procurement data) at any level and report his findings to the Administrator of SBA. The proposal also authorizes "such assistance as may be appropriate. Presumably this means that as many other SBA employes as SBA mandates are to be domiciled at the major procurement center. In our opinion, there is no possible basis for positioning a person from one advocacy agency in an unlimited position and with an unspecified number of aides, in a procurement agency. This should be deleted without further consideration. To the extent that Breakout Procurement Representatives are considered desirable, they can and should be established administratively. In this regard, we understand the SBA has already set up a pilot spare parts breakout program. We strongly believe that this pilot program should be given a chance to work and be evaluated before legislation in this area is seriously considered.

Section 15(q)(3) creates an unspecified number of positions for small business technical advisors at major procurement centers where there is a breakout procurement center representative. We oppose this because it requires the procuring agency to diminish its resources by supplying one or more advisors whose primary duty is to assist the SBA-appointed breakout representative.

S.2434

S.2434 would amend section 15 of the Small Business Act to add a new subsection (l). This subsection generally would accomplish the same ends as the new subsection 15(q) in S.2489. That is, it would create the new position of breakout procurement center representative at each major procurement center. Our objections to this legislation are the same as those expressed with regard to the corresponding material in S.2489. However, there are several differences that we wish to comment on.

Sec. 15(l)(2) - The proposal sets forth the functions of the center representative as follows:

(A) Review procurement method codes and conduct studies to change restrictive codings. We believe that this section is unclear and of limited application. The term "procurement method codes" is not defined and does not have general use throughout the Government. We also view the charter for an SBA employee to conduct independent studies with a view to changing restrictive codings as an interference in a line agency's operation.

(B) Review consolidated solicitations and recommend reducing the requirements in each solicitation to promote small business participation. We object to this provision because it fails to recognize the economy to be accomplished by involving several requirements in a single solicitation. Procurement practice also now permits bidding on less than the entire quantity of a solicitation where the solicitation so states.

(C) Review and conduct a value analysis of an engineering change proposal from any source. Value engineering is a cost reduction method based on change proposals from the contractor. Submission of engineering change proposals "from any source" is outside normal contract administration practice as is value analysis by an SBA employee.

(D) Review the systems that account for access to and ownership of all manufacturing data at the center. We fail to see any connection between the procurement center representative's work and this systems review. Data and patent ownership are often determined outside the purview of the procurement personnel. They often relate to legal issues. In this context such a review would be without meaning.

(E)(ii) Recommend both changes to procurement method codes and the desirability of value engineering change proposals; receive a written reply from the head of the activity within thirty days. These functions permit the center representative to demand the attention of the center procurement head to the detriment of other functions.

Much of the NASA procurement program is concerned with the acquisition of research and development. This is an area where VE is of little value. The FAR exempts R&D contracts from VE clauses. However, this subsection (E)(ii) would permit the representative to submit any number of VE change proposals whether or not the contract involved R&D or not.

Section 15(l)(5) would set up a system for awarding up to $5,000 to each breakout procurement center representative who achieves "significant" savings for the Government in carrying out his duties. We believe that this provision should be deleted because it depends on an undefined circumstance (significant savings).

STATEMENT OF BARNETT M. ANCELEITZ, DIRECTOR OF INSTALLATION OF LOGISTICS AND THE PROCUREMENT EXECUTIVE
DEPARTMENT OF TRANSPORTATION
BEFORE THE COMMITTEE ON SMALL BUSINESS
UNITED STATES SENATE
APRIL 12, 1984

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

I AM BARNETT M. ANCELEITZ, DIRECTOR OF INSTALLATIONS AND LOGISTICS OF THE DEPARTMENT OF TRANSPORTATION. I AM ALSO THE DEPARTMENT'S PROCUREMENT EXECUTIVE.

I APPRECIATE THE OPPORTUNITY TO PRESENT DOT'S VIEWS ON S. 2434 AND S. 2489. S. 2434, A BILL TO AMEND SECTION 15 OF THE SMALL BUSINESS ACT, WOULD REQUIRE THE SMALL BUSINESS ADMINISTRATION TO ASSIGN ADDITIONAL PROCUREMENT CENTER REPRESENTATIVES (PCR) TO EACH MAJOR PROCUREMENT CENTER. IT WOULD ALSO REQUIRE AGENCIES WITH MAJOR PROCUREMENT CENTERS TO ASSIGN TECHNICAL ADVISORS AT THESE CENTERS TO ASSIST THE PCR WITH BREAKOUT ANALYSES. S. 2489, THE "SMALL BUSINESS COMPETITION ENHANCEMENT ACT OF 1984", WOULD AMEND SECTION 15 OF THE SMALL BUSINESS ACT TO ENCOURAGE THE DESIGN AND PRODUCTION OF MAJOR SYSTEMS USING COMPONENTS WHICH ARE ALREADY IN THE SUPPLY SYSTEM OR WHICH ARE AVAILABLE COMMERCIALLY, AND THUS MAY BE LATER PURCHASED COMPETITIVELY. TO FURTHER AID SMALL BUSINESS, THE BILL WOULD REQUIRE AGENCIES TO TAKE ADDITIONAL STEPS TO JUSTIFY AND TO PUBLICIZE IT WHEN THEY INTEND TO USE QUALIFIED BIDDER OR PRODUCT LISTS, AND TO HELP SMALL

BUSINESSES TO QUALIFY FOR THOSE LISTS. OTHER MAJOR PROVISIONS OF THE BILL WOULD PROVIDE FOR EXPANSION OF THE SYNOPSIS PROGRAM, WOULD ADD NEW PROVISIONS IN MAJOR SYSTEMS CONTRACTS FOR THE GOVERNMENT TO ACQUIRE TECHNICAL DATA, AND WOULD REQUIRE SBA TO ASSIGN ADDITIONAL PROCUREMENT CENTER REPRESENTATIVES AT LARGE SUPPLY ACTIVITIES.

I WOULD LIKE TO MAKE SOME GENERAL COMMENTS ON EACH OF THESE BILLS. WITH RESPECT TO S. 2489, WE BELIEVE THAT MOST OF THE PROVISIONS OF THE BILL COULD BE HANDLED BY REGULATION RATHER THAN BY STATUTE, AND WE WOULD PREFER TO SEE THE CHANGES INCORPORATED IN THAT MANNER. SOME OF THE MAJOR ASPECTS OF THE BILL, AND OUR RESPONSE TO IT, ARE SET FORTH BELOW:

- THE BILL ENCOURAGES COMPETING MAJOR CONTRACTORS TO INCLUDE IN THEIR BIDS SPECIFIC PROPOSALS TO MAKE THE COMPETITIVE PROCUREMENT OF FUTURE "SPARE PARTS" REQUIREMENTS POSSIBLE.

WE HAVE NO OBJECTION TO THE INTENT OF THIS PROVISION, AS IT PROVIDES ADEQUATE FLEXIBILITY FOR USE UNDER DIFFERENT ACQUISITION STRATEGIES. WE BELIEVE THAT IT WILL ENHANCE COMPETITION FOR SPARE PARTS CONTRACTS AND THAT IT WILL CREATE ADDITIONAL OPPORTUNITIES FOR SMALL BUSINESS.

- THE BILL REQUIRES AGENCIES USING "PREQUALIFICATION" REQUIREMENTS -- A MAJOR BARRIER TO SMALL BUSINESS

COMPETITORS -- TO JUSTIFY THE NEED FOR PREQUALIFICATION; TO SPECIFY THE QUALIFICATION STANDARDS THAT MUST BE MET; AND TO PROVIDE ASSISTANCE TO SMALL BUSINESS CONCERNS SEEKING TO QUALIFY THEMSELVES OR THEIR PRODUCTS.

THE DEPARTMENT RARELY USES "QUALIFIED PRODUCTS LISTS". THEREFORE, THESE PROVISIONS OF THE BILL WOULD NOT HAVE A MAJOR IMPACT ON OUR OPERATIONS. HOWEVER, WE BELIEVE THAT THE FEDERAL ACQUISITION REGULATION CONTAINS ADEQUATE SAFEGUARDS AGAINST IMPROPER USE OF THE QUALIFIED PRODUCTS LIST, AND DO NOT SEE THE NEED FOR THIS COVERAGE IN STATUTE. THE REQUIREMENT THAT THE AGENCY MUST WAIVE TESTING, OR BEAR THE COST OF TESTING PRODUCTS SUBMITTED BY A SMALL BUSINESS WHEN LESS THAN FIVE FIRMS OR PRODUCTS ARE ON THE QPL WOULD PLACE A BURDEN ON THE AGENCIES. FOR THIS REASON, WE OPPOSE ADOPTION OF SUCH A REQUIREMENT.

- THE BILL IMPOSES NEW AND EXPANDED SYNOPSIS PROVISIONS BY ADDING REQUIREMENTS FOR NEW DATA TO BE PLACED IN THE COMMERCE BUSINESS DAILY.

WE OPPOSE THE NEW SYNOPSIS PROVISION SET FORTH IN SECTION 4(b)(1), WHICH WOULD IMPOSE SUBSTANTIAL NEW SYNOPSIS REQUIREMENTS ON THE AGENCIES FOR MOST PURCHASES OVER $10,000. BESIDES INCREASING THE LENGTH AND COMPLEXITY OF EVERY SYNOPSIS, AND SUBSTANTIALLY EXPANDING EACH ISSUE OF THE COMMERCE BUSINESS DAILY, WE QUESTION THE VALUE OF THIS

INFORMATION FOR MOST POTENTIAL OFFERORS WHO ARE IN THE BUSINESS.

- THE BILL REQUIRES THAT IN CERTAIN CASES THE GOVERNMENT OBTAIN TECHNICAL DATA SUITABLE FOR THE COMPETITIVE PROCUREMENT OF FUTURE "SPARE PARTS" REQUIREMENTS NECESSARY TO MAINTAIN THE MAJOR SYSTEMS WHICH IT PURCHASES.

WE SUPPORT THE THRUST OF THIS PROVISION. HOWEVER, THE BILL WOULD PROVIDE VARYING RIGHTS IN THE DATA, DEPENDING ON WHETHER THE DATA WAS "DEVELOPED AT PRIVATE EXPENSE" AS DEFINED BY EACH AGENCY. THIS, WE FEEL, IS UNSUITABLE. TO LEAVE THE DEFINITION WITH EACH AGENCY WOULD SERVE TO CONFUSE THOSE CONTRACTORS THAT DEAL WITH MORE THAN ONE OF US, AND WOULD REQUIRE THOSE CONTRACTORS TO BE CERTAIN NOT ONLY TO APPLY THE PROPER DEFINITION, BUT ALSO TO APPLY THE PARTICULAR AGENCY'S INTERPRETATION OF ITS DEFINITION.

- THE BILL SPECIFIES PROCEDURES TO BE UNDERTAKEN TO VALIDATE THE LEGITIMACY OF PROPRIETARY DATA CLAIMS ASSERTED BY CONTRACTORS AND PROVIDES FOR THE ESTABLISHMENT OF A SYSTEM OF FINANCIAL DISINCENTIVES TO DETER CONTRACTORS FROM ASSERTING UNWARRANTED CLAIMS FOR PROPRIETARY DATA.

WE SUPPORT THIS PROVISION. WHILE PREDETERMINATION OF RIGHTS CAN BE TIME CONSUMING AND DIFFICULT, A STATUTORY

PROVISION COVERING THE CHALLENGES TO THE STATUS OF DELIVERED DATA WOULD BE USEFUL.

- THE BILL WOULD EXPAND THE SMALL BUSINESS ADMINISTRATION'S PILOT BREAKOUT PROCUREMENT CENTER REPRESENTATIVES PROGRAM AND WOULD SPECIFY THE REPRESENTATIVES' AUTHORITY AND RESPONSIBILITY AS ADVOCATES FOR COMPETITION.

WE HAVE NO OBJECTION TO SBA ASSIGNING BREAKOUT PROCUREMENT CENTER REPRESENTATIVES TO DOT'S CONTRACTING CENTERS. WE BELIEVE, HOWEVER, THAT THIS SHOULD BE DONE ADMINISTRATIVELY AND NOT LEGISLATIVELY. I UNDERSTAND THAT SBA HAS A PILOT BREAKOUT PROGRAM UNDERWAY. IN MY VIEW, THIS SBA PILOT PROGRAM SHOULD BE GIVEN A CHANCE TO WORK AND BE EVALUATED BEFORE CONGRESS CONSIDERS LEGISLATIVE ACTION. IN ADDITION, WE OBJECT TO THE REQUIREMENT THAT THE PRIMARY DUTIES OF THE DOT TECHNICAL ADVISORS ASSIGNED TO ASSIST THE BREAKOUT PCR BE TO ASSIST THE PCR. IT WOULD BE PREFERABLE TO ASSIGN THIS FUNCTION AS A COLLATERAL DUTY IN THE VAST MAJORITY OF CASES. SUCH A METHOD OF ASSISTANCE WOULD PROVIDE BETTER QUALITY ADVICE TO THE PCR, AND WOULD IMPOSE A SUBSTANTIALLY LESSER BURDEN UPON THE DEPARTMENT.

S. 2434 WOULD AMEND SECTION 15 OF THE SMALL BUSINESS ACT TO ACCOMPLISH THE SAME ENDS AS S. 2489. THEY ARE BOTH SUBSTANTIALLY SIMILAR. HOWEVER, S.2434 HAS THE ADDITIONAL FEATURE OF SPECIFYING THE DUTIES OF THE PCR'S IN MUCH GREATER

DETAIL. WE DO NOT AGREE THAT THIS IS PRUDENT, AND WE WOULD PREFER THAT THEIR DUTIES BE DEFINED IN ADMINISTRATIVE REGULATIONS. THEREFORE, WE OPPOSE THE ENACTMENT OF S. 2434 IN ITS PRESENT FORM.

WITH THE EXCEPTIONS NOTED, I BELIEVE THAT S. 2489 AND S. 2434 ADDRESS MANY PROBLEMS ASSOCIATED WITH PROCUREMENT. I WANT TO REITERATE MY BELIEF, HOWEVER, THAT MOST OF THE PROBLEMS THAT THESE BILLS ARE INTENDED TO ADDRESS CAN BE DEALT WITH ADMINISTRATIVELY.

MR. CHAIRMAN, THIS COMPLETES MY PREPARED STATEMENT. I WOULD BE HAPPY TO ANSWER ANY QUESTIONS.

Senator NICKLES. Thank you, Mr. Anceleitz. We appreciate your comments and the comments of all of our panelists. Mr. Gordon, I understand that you had to juggle your schedule around and I am appreciative of your doing that as well.

A couple of general questions warrant discussion today, as well as many technical questions that we will need to submit for the record. We don't have time for those, and if you would provide answers to those in detail on the legislation we would be appreciative of your responsiveness. In general, though, a couple of questions:

Mr. Anceleitz, if I heard you correctly, you would support at least portions of the bill. Mr. Gordon and Mr. Evans, basically you said the bills were bad. I didn't hear you say that there was much good in the legislation except for maybe the intent. Is that a correct summary?

Mr. GORDON. I am sorry if I conveyed that impression. There are many things that the bills advocate that we are already initiating through our own management activities. To the extent that they are ongoing, and we are not yet confident that all of our initiatives are sound and workable, we would prefer not to see legislation which would prescribe for a protracted period of time certain mandated activities or actions.

We understand the thrust of the bills. We understand the concerns of Congress and we share those, and we share the general objectives, principles, and purposes of the legislation.

Senator NICKLES. Mr. Gordon, let me ask you just a couple of quick questions. I held the hearing in Oklahoma. I think Senator Kasten mentioned he had one in Wisconsin, and Senator Dixon has been active in this and Senator Gorton as well. I would think that, knowing Senator Dixon, Senator Gorton, Senator Kasten, and myself, we are all interested and most of the attention in this area has been focused on the Department of Defense. We appreciate the Department of Transportation and NASA with their representation today, but a lot of the attention has been focused on the Department of Defense and that is where most of the money is.

Now in the hearing that we had in Oklahoma, we found a very large percentage of the contracts—I believe something like 74 percent of the items, but that may not be exactly correct—were noncompetitive. I am shocked. I am a strong defender of national defense but I am also greatly perturbed at seeing how we spend some of our money, and I came to the conclusion that one of the reasons why we wasted a lot of money in defense was because we didn't have it open for competition. There were a lot of items that have been held under this proprietary, sole-source classification for years that should have been open for competition for a long, long time.

Now I have looked at this legislation. I may not have studied it in as much detail as Senator Dixon and others. I question if this is going to do more damage than good as I hear you and I read your statement. A lot of times you felt like it could cost more than it is worth. That may well be true, but we are not happy with the Government's procurement system today. It has been a failure, and if you look at it, and I hope that you and the Department, NASA and Transportation as well, will start looking at Government procurement possibly from the position of a manufacturer that would like to be able to supply some parts, would like to be able to enter into this cycle and have a chance to be able to compete and help them in a system.

Regarding the *Commerce Business Daily,* Mr. Anceleitz mentioned he felt like the changes that we propose, that is to actually put more information out to help assist. For example, if you are a small business person in Seattle, WA and you are interested in competing, and your only solution is where you take the Commerce Business Daily News and you get a short paragraph which basically suggests drawings or something, and then you go to the procurement agency of whom you ask for those drawings. They state that those are proprietary—or you just get into a circle. Then maybe if you are fortunate enough to find something that maybe you can have a slight chance of being able to get involved in the procurement cycle and it looks like an item that you might be able to manufacture or supply for the Government. You receive a 70-page purchase order, yet only 1 page of it deals with the description of the item, this brings the realization of why a lot of business people are turning their backs and saying, "No, we can't afford to do business with the Federal Government."

We need to eliminate such situations. Mr. Gordon, how many laws are dealing with Federal procurement today?

Mr. GORDON. Over 4,000 laws.

Senator NICKLES. I would be interested in the breakdown.

Mr. GORDON. That information is available in the Commission on Government Procurement Report. I could not tell you the breakdown offhand.

Senator NICKLES. If you would supply that or if your staff could supply it, I would be appreciative of that, because I am not looking to add another one so that we have 4,001. Possibly, if you are saying this legislation is bad, in many respects is bad, or if you are saying it could be done administratively, I would like for you to come to this committee, synopsizing is not the problem, nor is it QPL's or even source qualifications where we have 160,000 out of some 3.4 million different items.

[Subsequent information was received and follows:]

BREAKDOWN OF LAWS AND REGULATIONS

The report of the Commission on Government Procurement (Volume 1, page 10 (1972), U.S. Government Printing Office, Washington, D.C.) contains a reference to studies by that commission which identified more than 4,000 provisions of federal law related to procurement. This reference, which did not consider regulatory matters, is treated further in Volume 4 of the Commission Report, Part J. There is appended to these inserts a copy of the table of procurement related laws which was prepared by Mr. Charles Goodwin, Associate General Counsel, Commission on Government Procurement.

April 17, 1973

TABLE AND DIGEST OF PROCUREMENT-RELATED LAWS

This Table lists the approximately 4,000 procurement-related laws identified by the Statutory Studies Group of the Commission on Government Procurement. It covers all the procurement-related sections of the United States Code through 1972 and the Authorization and Appropriation Acts in the Statutes at Large for the calendar years 1968-1972. It also includes a brief digest of each section--enough to show the key elements covered but not specifically how they are covered.

Each Public Law and each U. S. Code Title is in conventional numerical order. However due to the computer program used, the Sections under each Title do not follow consecutively, but are in the order of the first, second, third, etc., digits--e.g., 1705, 171, 1723, 172 under Title 7.

This Table is a portion of a larger compilation constituting an Index-Digest of the Procurement-Related Laws. The Index-Digest has been filed with Congress with the Report of the Commission on Government Procurement. See Report Volume 4, p. 167. It covers the same laws included in this Table, but in addition to listing the laws in order of each U. S. Code or Public Law number and section, it lists them in index order of each key word used in the digest of each section. Thus all the laws specifically dealing with the "Army," "Costs" or "Appropriations" can be found under those index or key words.

The comprehensive Index-Digest was too bulky for general distribution, but copies have been filed with the Congressional Research Services of the Library of Congress, the General Services Administration (Library of Commission on Government Procurement materials) Archives, the Office of Management and Budget, the General Accounting Office, the Department of Defense, National Aeronautics and Space Administration, the Atomic Energy Commission, and the Court of Claims. The computer tapes used to produce the Index-Digest have been deposited with Archives.

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Charles Goodwin
Associate General Counsel
Commission on Government Procurement

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PL,91-667= APPROPRIATIONS OF SPECIFIC AGENCIES NOT TO BE PAID BY UNIVERSITIES TO CAMPUS DISRUPTERS
PL,91-667= GRANTS FROM APPROPRIATIONS OF SPECIFIC AGENCIES NOT TO EQUAL TOTAL COST OF PROJECT
PL,91-667 PL,91-204 PL,91-305= SEE SPECIFIC AGENCIES RE PL,91-194 AND PL,91-665 PL,91-561 PL,91-556
PL,91-668= APPROPRIATIONS OF DOD NOT AVAILABLE BEYOND FISCAL YEAR UNLESS OTHERWISE PROVIDED
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PL,91-668= DOD APPROPRIATIONS NOT TO BE USED FOR CONSTRUCTION OF SHIPS IN FOREIGN SHIPYARDS
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PL,91-668= DOD APPROPRIATIONS NOT TO BE USED TO PURCHASE CERTAIN FOREIGN COMMODITIES
PL,91-668= DOD APPROPRIATIONS NOT TO BE USED TO REIMBURSE ADVERTISEMENT COST OF CONTRACTORS
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PL,91-98-TITLE-I,SECT-104= INTERIOR DEPT APPROPRIATIONS AVAILABLE FOR HIRE OF AIRCRAFT, AUTOS, PHONE SERVICE
PL,92-140 USC,17-1(F) CREATION OF LIMITED COPYRIGHT IN SOUND RECORDINGS
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PL,92-160-SECT-109= RESTRICTION ON USE OF DOD CONSTRUCTION FUNDS FOR FOREIGN PROJECTS
PL,92-160= MILITARY CONSTRUCTION APPROPRIATIONS FOR FY1972
PL,92-184= SUPPLEMENTAL APPROPRIATIONS FOR FY1972
PL,92-204= DOD APPROPRIATION ACT FY1972
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PL,92-242-SECT-105= FOREIGN ASSISTANCE ACT CONTRACTS SHALL CONTAIN CONVENIENCE TERMINATION CLAUSE
PL,92-242-SECT-106= US MUST APPROVE CONTRACTS MADE UNDER FOREIGN ASSISTANCE ACT LOANS OR GRANTS
PL,92-242= A&E FEES OVER D25000 FOR SINGLE PROJECT UNDER FOREIGN ASSISTANCE ACT TO BE REPORTED TO CONGRESS
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PL,92-255-SECT-210= AUTHORITY SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION TO CONTRACT
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PL,92-304-SECT-1= AUTHORITY NASA TO CONTRACT ACROSS FISCAL YEARS USING CERTAIN ANNUAL FUNDS
PL,92-304-SECT-1= PROHIBITION ON USE OF NASA FUNDS TO CAMPUSES BARRING MILITARY RECRUITERS
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PL,92-313-SECT-5= AUTHORITY GSA TO ENTER INTO PURCHASE CONTRACTS FOR SPACE UP TO 30 YEARS PERIODS
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PL,92-383= COST SHARING REQUIRED ON PROJECTS INITIATED BY UNSOLICITED PROPOSAL UNDER CERTAIN APPROPRIATIONS
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PL,92-484-SECT-10= OFFICE OF TECHNOLOGY ASSESSMENT TO MAINTAIN LIAISON WITH NATIONAL SCIENCE FOUNDATION
PL,92-484-SECT-2= PUBLIC AVAILABILITY OF OFFICE OF TECHNOLOGY ASSESSMENT INFORMATION
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PL,92-500-SECT-12= DAVIS-BACON ACT APPLICABLE TO FEDERAL WATER POLLUTION CONTROL ACT GRANTS
PL,92-500-SECT-508= PROHIBITION ON CONTRACTING WITH VIOLATORS OF FEDERAL WATER POLLUTION CONTROL ACT
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PL,92-512-SECT-123= CONSTRUCTION PROJECTS UNDER REVENUE SHARING SUBJECT TO DAVIS-BACON-ACT
PL,92-513-SECT-202= AUTHORITY SEC DOT TO CONTRACT FOR RESEARCH RE AUTO SAFETY
PL,92-514= AUTHORIZATION FOR CONSTRUCTION FEDERAL RECLAMATION PROJECTS
PL,92-516-SECT-20= AUTHORITY EPA TO CONTRACT FOR RESEARCH RE PESTICIDES
PL,92-526= AUTHORITY ADMINISTRATIVE CONFERENCE TO CONTRACT FOR STUDIES UNDER FPASA
PL,92-545-SECT-704= A&E CONTRACTS FOR DOD CONSTRUCTION TO BE AWARDED UNDER ESTABLISHED PRACTICES
PL,92-545-SECT-704= STANDARDS FOR AWARD OF DOD CONSTRUCTION CONTRACTS
PL,92-545= DOD MILITARY CONSTRUCTION AUTHORIZATION FY1973
PL,92-547-SECT-102= SEC DOD SHALL APPROVE CERT CONSTRUCTION CONTRACTS ESTIMATED OVER 025000
PL,92-547-104= RESTRICTION ON DOD CONSTRUCTION OF BAKERY LAUNDRY AND DRYCLEANING FACILITIES
PL,92-547= DOD MILITARY CONSTRUCTION APPROPRIATIONS FY-1973
PL,92-550= TRANSPORTATION SERVICES FURNISHED TO US MAY BE PAID IN ADVANCE OF COMPLETION OF SERVICES
PL,92-570-SECT-701= RESTRICTION ON USE OF DOD FUNDS FOR PUBLICITY OR PROPAGANDA
PL,92-570-SECT-702= AUTHORITY TO PROCURE EXPERT AND CONSULTANT SERVICES WITH DOD APPROPRIATIONS
PL,92-570-SECT-707= DOD AUTHORITY TO CROSS FISCAL YEARS USING ANNUAL FUNDS RE TOOL AND FACILITY MAINTENANCE
PL,92-570-SECT-709= DOD TO ASSIST SMALL BUSINESS IN OBTAINING CONTRACTS
PL,92-570-SECT-711= DOD APPROPRIATIONS ARE ANNUAL FUNDS UNLESS EXPRESSLY PROVIDED OTHERWISE FOR FY1973
PL,92-570-SECT-721= AUTHORITY DOD TO PURCHASE TEST EQUIPMENT UNDER USC,10-2353 WITH R&D FUNDS
PL,92-570-SECT-724= RESTRICTION ON DOD PROCUREMENT OF CERTAIN FOREIGN ARTICLES UNDER FY1973 APPROPRIATIONS
PL,92-570-SECT-725= RESTRICTION ON DOD CONSTRUCTION OF BAKERY LAUNDRY AND DRYCLEANING FACILITIES
PL,92-570-SECT-732= RESTRICTION ON USE OF DOD FUNDS FOR DEFENSE CONTRACTOR ADVERTISING COSTS
PL,92-570-SECT-734= RESTRICTION ON USE OF DOD FUNDS FOR CONSTRUCTION OF FACILITIES OVER 050000
PL,92-570-SECT-736= RESTRICTION ON USE OF DOD APPROPRIATIONS FOR CONTRACT PAYMENTS IN FOREIGN COUNTRIES
PL,92-570-SECT-740= RESTRICTION ON DOD LOANS OR GRANTS TO CAMPUS DISRUPTERS
PL,92-570-SECT-744= RESTRICTION ON USE OF DOD R&D FUNDS FOR CONTRACTS WITH FOREIGN FIRMS
PL,92-570-SECT-745= RESTRICTION ON USE OF DOD FUNDS FOR RESEARCH ON UNINFORMED OR NONVOLUNTARY HUMANS
PL,92-570= DOD APPROPRIATION ACT FY1973
PL,92-573-SECT-27= AUTHORITY CONSUMER PRODUCT SAFETY COMMISSION TO CONSTRUCT AND OPERATE R&D FACILITIES
PL,92-573-SECT-27= AUTHORITY CONSUMER PRODUCT SAFETY COMMISSION TO CONTRACT INCLUDING GOVERNMENT AGENCIES
PL,92-573-SECT-5= AUTHORITY CONSUMER PRODUCT SAFETY COMMISSION TO CONTRACT FOR RESEARCH TESTING TRAINING
PL,92-573= CONSUMER PRODUCT SAFETY ACT
PL,92-574-SECT-10= EPA MAY EXEMPT CERTAIN R&D PROGRAMS FROM NOISE CONTROL ACT
PL,92-574-SECT-14= AUTHORITY EPA TO CONTRACT FOR R&D RE NOISE RESEARCH PROGRAMS
PL,92-574-SECT-15= COST LIMITATION ON GSA PURCHASE OF LOW NOISE EMISSION PRODUCTS
PL,92-574-SECT-15= GSA MAY PURCHASE CERTIFIED LOW NOISE EMISSION PRODUCTS
PL,92-574-SECT-15= STATUTORY PRICE LIMITATIONS WAIVED FOR GSA PURCHASE OF LOW NOISE EMISSION PRODUCTS
PL,92-574-SECT-3= CERTAIN AIRCRAFT MILITARY EQUIPMENT NASA AND R&D EQUIPMENT EXEMPT FROM NOISE CONTROL ACT
PL,92-574-SECT-4= FEDERAL FACILITIES AND ACTIVITIES SUBJECT TO NOISE CONTROL ACT UNLESS EXEMPT BY PRESIDENT
PL,92-574-SECT-7= AIRCRAFT NOISE STANDARDS UNDER NOISE CONTROL ACT
PL,92-574= NOISE CONTROL ACT OF-1972
PL,92-583= FPASA AMENDMENT RE SELECTION OF A&E SERVICES BASED ON VALUE SCOPE COMPLEXITY PROFESSIONAL NATURE
PL,92-597-SECT-3= YOUTH CONSERVATION CORPS CONTRACTORS MUST HAVE 5 YEARS EXPERIENCE
PL,92-597= SEC INTERIOR AND SEC AGRICULTURE MAY CONTRACT FOR OPERATION OF YOUTH CONSERVATION CORPS PROJECTS
PL,92-597= YOUTH CONSERVATION CORPS ACT-1970 AMENDMENTS
PL,92-599-SECT-401= FEDERAL IMPOUNDMENT AND INFORMATION ACT
PL,92-599= PPROPRIATED FUNDS
PL,92-599= TEMPORARY INCREASE IN PUBLIC DEBT LIMIT
PL,92-607-SECT-1101= SUPPLEMENTAL APPROPRIATIONS ARE ANNUAL FUNDS UNLESS OTHERWISE PROVIDED
PL,92-607= SUPPLEMENTAL APPROPRIATIONS FOR FY1973
PL,92-522= AUTHORITY TO CONTRACT FOR RESEARCH RE MARINE MAMMALS

USC,1-105	[illegible] REPEAL OF STATUTE DOES NOT EXTINGUISH CONTRACT LIABILITIES INCURRED UNDER STATUTE
USC,1-109	REPEAL OF STATUTE DOES NOT EXTINGUISH EXISTING [illegible] [illegible] RE CONTRACTS
USC,1-110	ALL ACTS OF LEGISLATION IN REVISED STATUTES & COVERED BY REPEAL [illegible] BE AFFECTED
USC,1-115	PURCHASE OF PAPER ENVELOPES ETC FROM PUBLIC PRINTER FOR STATIONERY ROOMS OF CONGRESS
USC,1-110	SUITS ARISING PRIOR TO REPEALS IN REVISED STATUTES MAY PROCEED AS IF REPEAL HAD NOT OCCURRED
USC,1-201	AUTHORITY OF CONGRESS TO CURTAIL THE NUMBER OF COPIES PUBLISHED OF CERTAIN VOLUMES
USC,1-201	AUTHORITY OF PUBLIC PRINTER TO PRINT NECESSARY NUMBER OF COPIES OF VOLUMES FOR SALE ETC
USC,1-201	PUBLICATION IN SLIP OR PAMPHLET FORM OF CERTAIN VOLUMES IS DISPENSED WITH UNDER SOME CONDITIONS
USC,1-201	PUBLICATION IN STATUTES-AT-LARGE OF CERTAIN VOLUMES IS DISPENSED WITH UNDER CERTAIN CONDITIONS
USC,1-213	AUTHORITY OF CONGRESS TO PUBLISH ONLY ONE SUPPLEMENT TO CODE OF LAWS OF U.S. & CODE OF D.C.
USC,2-100	ADVERTISED PROCUREMENT REQUIRED FOR PACKING BOXES FOR CONGRESS
USC,2-101	PROHIBITION AGAINST EMPLOYEES OF CONGRESS SUBLETTING DUTIES
USC,2-102	REPORT TO CONGRESS ON TYPE OF EXPENDITURES FROM CONTINGENT FUNDS OF CONGRESS
USC,2-104A	REPORT TO CONGRESS ON TYPE OF EXPENDITURES BY CONGRESS
USC,2-105	STATEMENTS OF APPROPRIATIONS CONTENTS ARE TO INDICATE AMOUNT OF CONTRACTS AUTHORIZED
USC,2-106	ADVERTISED PROCUREMENT REQUIRED FOR CONGRESSIONAL STATIONERY
USC,2-107	CONTRACT PROCEDURES RE ADVERTISED PROCUREMENT FOR CONGRESSIONAL STATIONERY
USC,2-108	EXCEPTIONS FROM ADVERTISED PROCUREMENT REQUIRED FOR CONGRESSIONAL STATIONERY
USC,2-109	AMERICAN GOODS ARE PREFERRED FOR CONGRESSIONAL PURCHASES
USC,2-111	FEDERAL SUPPLY SERVICE AUTHORIZED FOR PURCHASE OF CONGRESSIONAL SUPPLIES
USC,2-112	REPORT TO CONGRESS ON CONTRACTS - BONDS FOR PURCHASE OF STATIONERY FOR FOLDING FOR CONGRESS
USC,2-118	APPROPRIATE DISTRICT ATTORNEY SHALL REPRESENT OFFICERS OF CONGRESS IN SUITS RE OFFICIAL ACTS
USC,2-119	AUTHORITY FOR CONGRESS TO ISSUE REGULATIONS RE STATIONERY AND MISC. PURCHASES
USC,2-11	CONTRACT PROCEDURES FOR PURCHASE OF STATIONERY AND MATERIALS FOR FOLDING FOR CONGRESS
USC,2-122	AUTHORITY OF CONGRESS TO SECURE OFFICE SPACE FOR HOUSE MEMBERS IN FEDERAL BUILDINGS IN HOME STATE
USC,2-122	AUTHORITY OF HOUSE MEMBER TO LEASE OR RENT OFFICE SPACE IN HOME STATE AT GOVERNMENT COST
USC,2-123B	AUTHORITY TO ESTABLISH A HOUSE RECORDING STUDIO & A SENATE RECORDING STUDIO
USC,2-126B	AUTHORITY FOR CONGRESS TO PROCURE EMERGENCY REPORTERS AND TRANSCRIBERS
USC,2-135A-1	PURCHASE OF MUSICAL SCORES / INSTRUCTIONAL TEXTS FOR BLIND & OTHER PHYSICALLY HANDICAPPED
USC,2-135	PURCHASE OF LAW BOOKS BY LIBRARIAN OF CONGRESS - OBSOLETE
USC,2-141	ARCHITECT OF CAPITAL SHALL HAVE CHARGE OF ALL STRUCTURAL WORK AT LIBRARY OF CONGRESS BUILDING
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USC,2-143A	AUTHORITY LIB CONG TO DISBURSE FUNDS FOR PAYMENT OF TRAVEL FOR PERSONS STATIONED ABROAD
USC,2-143A	AUTHORITY LIB CONG TO DISBURSE FUNDS FOR PURCHASE OR HIRE OF PASSENGER MOTOR VEHICLES
USC,2-143A	AUTHORITY LIB CONG TO ISSUE RULES & REGULATIONS RE MISCELLANEOUS PROCUREMENT PURCHASES
USC,2-145	TWO COPIES OF JOURNALS DOCUMENTS BOOKS PRINTED BY HOUSES OF CONGRESS ARE DEPOSITED IN LIBRARY
USC,2-150	AUTHORITY LIBRARIAN OF CONGRESS TO SELL COPIES OF CARD INDEXES & LIBRARY PUBLICATIONS
USC,2-165	[illegible] RE BIENNIAL INDEX OF LIBRARY OF CONGRESS
USC,2-166	AUTHORITY CONGRESS TO CONTRACT WITHOUT ADVERTISING FOR EXPERTS & CONSULTANTS RE RESEARCH SERVICES
USC,2-166	AUTHORITY OF CONGRESS TO CONTRACT WITH ORGANIZATIONS OF EXPERTS & CONSULTANTS WITHOUT ADVERTISING
USC,2-166	AUTHORITY OF CONGRESS TO EMPLOY EXPERTS CONSULTANTS ETC FOR UP TO ONE YEAR
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USC,7-1981(C)	AUTHORITY SEC AGRICULTURE TO PURCHASE FACILITIES & SERVICES RE FARMERS HOME ADMINISTRATION
USC,7-1981(D)	AUTHORITY SEC AGRICULTUEE TO COMPROMISE ADJUST OR REDUCE CONTRACT CLAIMS & TERMS RE FARMERS
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USC,7-1985	AUTHORITY SEC AGRICULTURE TO PURCHASE PROPERTY WITH U.S. HELD LIEN RE FARMERS HOME ADMINISTRATION

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USC,7-1986	CONFLICT OF INTEREST RE TRANSACTIONS UNDER FARMERS HOME ADMINISTRATION
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USC,7-2105	ORDERS ISSUED RE COTTON RESEARCH & PROMOTION MAY PROVIDE RESEARCH & DEVELOPMENT STUDIES
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USC,10-2680	SEC DEFENSE MAY APPROVE REGULATIONS FOR REIMBURSEMENT OF OWNERS OF PROPERTY FOR MOVING EXPENSES
USC,10-2680	SEC MILITARY DEPARTMENTS MAY REIMBURSE OWNERS OF CERTAIN PROPERTY ACQUIRED RE MOVING EXPENSES
USC,10-2680	TIME LIMITATION RE APPLICATION BY OWNERS OF PROPERTY FOR REIMBURSEMENT OF MOVING EXPENSES
USC,10-2681	AUTHORITY TO PROCURE FOREIGN HOUSING
USC,10-2682	FISCAL LAW
USC,10-3012	POWERS AND DUTIES OF SEC ARMY
USC,10-310(L)	*USC,50A-643* INSPECTION OF PLANT & AUDIT OF BOOKS OF DEFENSE CONTRACTORS IN ACCORDANCE WITH
USC,10-3751	THE SEC ARMY MAY PROCURE AND ISSUE SERVICE MEDALS
USC,10-4022	SURGEON GENERAL MAY EMPLOY NECESSARY CONTRACT SURGEONS SUBJECT TO APPROVAL OF SEC ARMY
USC,10-4301	ARMY PERSONNEL MAY BE DETAILED TO CIVILIAN EDUCATIONAL INSTITUTIONS
USC,10-4308	AUTHORITY OF SEC ARMY TO ESTABLISH AND MAINTAIN CIVILIAN RIFLE RANGES
USC,10-4340	SEC ARMY MAY PURCHASE SUPPLIES FOR ARMY CORPS OF CADETS
USC,10-4412	FISCAL LAW
USC,10-4501	AUTHORITY OF PRESIDENT THROUGH DEPTS TO PLACE PRIORITY ORDERS & TAKE POSSESSION OF PLANTS
USC,10-4501	AUTHORITY OF PRESIDENT THROUGH MILITARY DEPTS TO PLACE PRIORITY ORDERS AND PENALTY FOR VIOLATION
USC,10-4502	RQMT THAT SEC ARMY MAINTAIN LIST OF ORDNANCE PLANTS
USC,10-4503	AUTHORITY OF SEC ARMY TO CONTRACT FOR RESEARCH AND DEVELOPMENT
USC,10-4504	AUTHORITY OF SEC ARMY TO PROCURE EXPERIMENTAL ORDNANCE WITHOUT COMPETITION
USC,10-4505	AUTHORITY OF SEC ARMY TO PROCURE PRODUCTION EQMT WITHOUT COMPETITION
USC,10-4506	AUTHORITY OF SEC ARMY TO MAKE MANUFACTURING DATA AVAILABLE TO CONTRACTORS
USC,10-4507	SEC ARMY MAY SELL ORDNANCE STORES FOR DESIGN DEVELOPMENT FOR ARMED FORCES
USC,10-4508	SEC ARMY MAY PERMIT USE OF CERTAIN ARMY TESTING DEVICES BY INDIVIDUALS SUBJECT TO CERTAIN FEES

KEYWORD	
USC,10-4531	AUTHORITY OF SEC ARMY TO PROCURE GUIDED MISSILES AND OTHER EQMT
USC,10-4532	AUTHORITY OF SEC ARMY TO USE OR ABOLISH ARSENALS
USC,10-4533	AUTHORITY OF SEC ARMY TO DIRECT THE BUYING OF RATIONS
USC,10-4534	ARMY SUBSISTENCE SUPPLY CONTRACTS MUST PROVIDE FOR COMPLETE DELIVERY ON INSPECTION
USC,10-4535	CERTAIN ARMY SUBSISTENCE SUPPLIES MAY BE PURCHASED ON OPEN MARKET WITHOUT ADVERTISING
USC,10-4536	CERTAIN ITEMS FOR ARMY USE MAY BE PURCHASED WITH APPROPRIATIONS FOR REGULAR SUPPLIES
USC,10-4537	SEC ARMY MAY OBTAIN MAPPING SERVICES FROM OTHER AGENCIES
USC,10-4538	AUTHORITY SEC ARMY TO CONTRACT FOR RESTORING DETERIORATED AMMUNITION AND COMPONENTS
USC,10-4540	SEC ARMY MAY PROCURE A&E SERVICES
USC,10-4551	AVAILABILITY OF USE OF PUBLIC UTILITY PROCEEDS RE ARMY CORPS-OF-ENGINEER OPERATED FACILITIES
USC,10-4628	SEC ARMY MAY SELL CERTAIN PARTS FOR AIRPLANE REPAIR TO CERTAIN CIVILIAN FLYING SCHOOLS
USC,10-4742	PRESIDENT MAY IN TIME OF WAR ASSUME CONTROL OVER ANY TRANSPORTATION SYSTEM NEEDED
USC,10-4745	COMMERCIAL CARGOES MAY BE TRANSPORTED ON ARMY OPERATED VESSELS IN CERTAIN CASES
USC,10-4747	US GOODS MAY BE TRANSPORTED TO GUAM ON ARMY OPERATED VESSELS IN CERTAIN CASES
USC,10-4774	RESTRICTIONS ON SIZE AND COSTS OF ARMY QUARTERS ARE ESTABLISHED
USC,10-4776	FORTIFICATIONS MAY BE BUILT ON PRIVATE LAND IN EMERGENCY WITH OWNERS CONSENT
USC,10-4780	SEC ARMY MAY LEASE BUILDINGS IN D.C. DURING WAR OR THREAT OF WAR
USC,10-4780	SEC ARMY MAY REQUISITION BUILDINGS IN D.C. WITH CERTAIN EXCEPTIONS
USC,10-4802	LIMITATION ON AUTHORITY SEC ARMY RE SIZE OF CLAIM THAT HE MAY SETTLE
USC,10-4802	SEC ARMY MAY SETTLE CLAIMS AGAINST U.S. INVOLVING DAMAGE OR TOWAGE & SALVAGE OF CERTAIN VESSELS
USC,10-4803	SEC ARMY MAY SETTLE CERTAIN CLAIMS IN REGARD TO CERTAIN PROPERTY UNDER HIS JURISDICTION
USC,10-4806	ALL SETTLEMENTS OF CERTAIN CLAIMS BY SEC ARMY ARE FINAL AND CONCLUSIVE
USC,10-4831	SEC ARMY MAY HAVE CUSTODY OVER CERTAIN PROPERTY UNDER THE LAWFUL CONTROL OF DEPT ARMY
USC,10-5031	DUTIES OF SEC NAVY
USC,10-5082	DUTIES OF CHIEF OF NAVAL OPERATIONS & CHIEF OF NAVAL MATERIAL
USC,10-5152	AUTHORITY OF OFFICE OF NAVAL RESEARCH - AVAILABILITY OF FUNDS FOR EXPENDITURE PAST FISCAL YEAR
USC,10-6970	AUTHORITY OF STORE-KEEPER OF NAVAL ACADEMY
USC,10-6971	FUNDS COLLECTED AT NAVAL ACADEMY STORES SHALL BE DEPOSITED IN TREASURY FOR NAVAL ACADEMY USE
USC,10-7201	AUTHORITY OF SEC NAVY TO PROCURE GUIDED MISSILES & ASSOCIATED RESEARCH & DEVELOPMENT (R&D)
USC,10-7202	AUTHORITY OF SEC NAVY TO MAKE EMERGENCY EXPENDITURES
USC,10-7203	AUTHORITY OF SEC NAVY TO CONDUCT RESEARCH
USC,10-7205	AUTHORITY OF SEC NAVY TO PROCURE SAFETY EQUIPMENT
USC,10-7210	AUTHORITY OF SEC NAVY TO PROCURE PATENTS
USC,10-7212	AUTHORITY OF SEC NAVY TO PROCURE A&E SERVICES, FEE NOT TO EXCEED SIX PCT
USC,10-7213	AUTHORITY OF SEC NAVY TO COMPENSATE CONTRACTORS FOR LOSS DUE TO ENEMY ACTION
USC,10-7219	AUTHORITY OF SEC NAVY TO LEASE WATERFRONT PROPERTY AND MUNICIPALITIES
USC,10-7229	AUTHORITY OF SEC NAVY TO PURCHASE FUEL WITHOUT COMPETITION
USC,10-7294	PRESIDENT MAY SUSPEND NAVAL VESSEL CONSTRUCTION IN CONNECTION WIHT TREATY TO LIMIT ARMAMENTS
USC,10-7296	FISCAL LAW
USC,10-7297	FISCAL LAW
USC,10-7298	FISCAL LAW
USC,10-7299	CONSTRUCTION OF VESSELS SUBJECT TO PUBLIC CONTRACTS ACT
USC,10-7300	CERTAIN ROMTS OF NAVY CONTRACTS - AUDIT OF BOOKS AND LIMITATION OF EXCESS PROFITS
USC,10-7301	ROMT OF COST & PRICING DATA ON BIDS FOR CONSTRUCTION OF NAVY VESSELS
USC,10-7302	CONSTRUCTION OF NAVAL VESSELS ON PACIFIC COAST
USC,10-7305	SEC NAVY MAY ADVERTISE & REGULATE CONDITIONS OF SALE OF CERTAIN NAVY VESSELS
USC,10-7305	SEC NAVY MAY NOT SELL CERTAIN VESSELS BELOW THEIR APPRAISED VALUE WITHOUT CONSENT OF PRESIDENT
USC,10-7306	SEC NAVY MAY USE OBSOLETE VESSELS FOR EXPERIMENTAL PURPOSES
USC,10-7308	SEC NAVY MAY AGREE TO TRANSFER CERTAIN NAVY VESSELS TO CERTAIN AGENCIES & INDIVIDUALS
USC,10-7341	AUTHORITY OF PRESIDENT TO PROCURE NAVY A/C
USC,10-7342	AT LEAST 10 PERCENT NAVAL AIRCRAFT TO BE BUILT IN GOOD FIRMS UNLESS AT CAPACITY
USC,10-7343	NAVAL AIRCRAFT MAY BE MANUFACTURED IN-HOUSE WHEN CONTRACTORS ARE IN COLLUSION
USC,10-7344	PRESIDENT MAY SUSPEND NAVAL AIRCRAFT CONSTRUCTION WITH TREATY TO LIMIT ARMAMENTS
USC,10-7361	SEC NAVY MAY CONTRACT FOR SALVAGE FACILITIES FOR PUBLIC AND PRIVATE VESSELS
USC,10-7362	AUTHORITY OF SEC NAVY TO ACQUIRE SALVAGE VESSELS FOR OPERATION BY PRIVATE SALVAGE COMPANIES
USC,10-7363	CERTAIN CONDITIONS ARE TO BE INCLUDED IN NAVY SALVAGE CONTRACTS
USC,10-7364	AUTHORITY OF SEC NAVY TO ADVANCE FUNDS TO SALVAGE COMPANIES
USC,10-7367	DISPOSITION OF RECEIPTS FROM NAVY SALVAGE OPERATIONS IS SPECIFIED
USC,10-7352	SEC NAVY MAY HAVE U.S. NAVAL OCEANOGRAPHIC OFFICE PREPARE CERTAIN BOOKS & CHARTS FOR NAVIGATION
USC,10-7392	SEC NAVY MAY PURCHASE PLATES OF EXISTING BOOKS & CHARTS RE NAVIGATION
USC,10-7421	SEC NAVY IS GIVEN JURISDICTION OVER PETROLEUM RESERVES
USC,10-7422	AUTHORITY OF SEC NAVY TO OPERATE PETROLEUM RESERVES
USC,10-7424	AUTHORITY OF SEC NAVY TO CONTRACT FOR CONSERVATION OF OIL
USC,10-7425	SEC NAVY MAY ACQUIRE BY PURCHASE OR CONDEMNATION CERTAIN LAND RIGHTS SUBJECT TO PRESIDENT
USC,10-7425	SEC NAVY MAY REPORT ALL ACQUISITIONS REQUIRING APPROVAL OF PRESIDENT TO THE CONGRESS
USC,10-7426	AUTHORITY OF SEC NAVY TO CONTRACT FOR OIL EXPLORATION
USC,10-7427	LIMITATION ON AUTHORITY SEC NAVY TO EXTEND LEASES RE LAND WITHIN NAVAL PETROLEUM RESERVES
USC,10-7427	SEC NAVY MAY MAKE AGREEMENTS RE LANDS WITHIN NAVAL PETROLEUM RESERVES
USC,10-7427	SEC NAVY MAY NOT MAKE AGREEMENTS RE LANDS WITHIN NAVAL PETROLEUM RESERVES WITHOUT PRESIDENT
USC,10-7428	LIMITATION ON SEC NAVY RE CHANGE CERTAIN ROMTS RE LAND WITHIN NAVAL PETROLEUM RESERVES
USC,10-7428	SEC NAVY MAY CHANGE PRODUCTION & DEVELOPMENT ROMTS IN AGREEMENT RE NAVAL PETROLEUM RESERVES
USC,10-7429	SEC NAVY MAY RELEASE CERTAIN LANDS WITHIN NAVAL PETROLEUM RESERVES
USC,10-7430	SEC NAVY MAY SELL CERTAIN PETROLEUM PRODUCTS RE ADMINISTRATION OF NAVAL PETROLEUM RESERVES
USC,10-7431	ROMT TO CONSULT WITH COMMITTEE ON ARMED SERVICES OF SENATE & HOUSE RE NAVAL PETROLEUM RESERVES
USC,10-7431	ROMT TO OBTAIN APPROVAL OF PRESIDENT FOR CERTAIN AGREEMENTS RE NAVAL PETROLEUM RESERVES
USC,10-7433	FISCAL LAW RE ALL MONIES ACCRUING FROM NAVAL PETROLEUM RESERVES ROYALTIES COVERED TO TREASURY
USC,10-7433	ROYALTIES ACCRUING TO U.S. FFROM PETROLEUM RESERVES BE DELIVERED AS SEC NAVY INSTRUCTS
USC,10-7435	AGREEMENTS RE CERTAIN NAVAL PETROLEUM RESERVES NOT AUTHORIZED RE FOREIGN LAWS DENY PRIVILEGE
USC,10-7435	LIMITATION ON AUTHORITY TO ENTER INTO AGREEMENTS IN FOREIGN COUNTRIES RE NAVAL PETROLEUM RSVS

KEYWORD	
USC,10-7435	SEC NAVY MAY CANCEL ANY LEASE FOR CERTAIN VIOLATIONS RE NAVAL PETROLEUM RESERVES
USC,10-7437	CONDITIONS FOR FORFEITURE & CANCELLATION OF LEASES RE NAVAL PETROLEUM RESERVES
USC,10-7437	LEASES MAY PROVIDE FOR APPROPRIATE METHODS FOR SETTLEMENT OF DISPUTES RE NAVAL PETROLEUM RSVS
USC,10-7521	AUTHORITY OF SEC NAVY TO MAKE PARTIAL PAYMENTS ON CONTRACTS
USC,10-7522	AUTHORITY OF SEC NAVY TO PROCURE R&D SERVICES WITHOUT COMPETITION OR BOND
USC,10-7523	NAVY TRANSPORTATION AND TRAVEL APPROPRIATIONS AVAILABLE FOR TOLLS AND BUS FARES
USC,10-7575	FISCAL LAW
USC,10-7581	DISPOSITION OF RECEIPTS OF MARINE CORPS LAUNDRIES IS SPECIFIED
USC,10-7601	AUTHORITY OF SEC NAVY TO PROCURE GOODS FOR RESALE
USC,10-7622	SEC NAVY MAY SETTLE CERTAIN CLAIMS AGAINST THE NAVAL SERVICE UNDER CERTAIN DOLLAR CEILING
USC,10-7623	LIMITATION ON AUTHORITY SEC NAVY TO SETTLE OR RECEIVE PAYMENT OF CLAIM TO CERTAIN DOLLAR AMOUNT
USC,10-7623	SEC NAVY MAY RECEIVE PAYMENT FOR DAMAGE TO PROPERTY UNDER NAVY DEPT JURISDICTION
USC,10-8012	DUTIES OF SEC USAF
USC,10-8751	AUTHORITY OF SEC USAF TO PROCURE MEDALS
USC,10-9022	SEC USAF MAY EMPLOY AS MANY CIVILIAN CONTRACT SURGEONS AS MAY BE NECESSARY
USC,10-9301	AIR FORCE PERSONNEL MAY BE DETAILED TO CIVILIAN EDUCATIONAL INSTITUTIONS
USC,10-9412	AUTHORITY OF SEC USAF TO PROCURE CERTAIN SUPPLIES FOR SCHOOLS AND CAMPS
USC,10-9441	CIV AIR PATROL FTASA NOT APPLICABLE
USC,10-9501	AUTHORITY OF PRESIDENT TO ESTABLISH PRIORITIES AND TAKE POSSESSION OF PLANTS
USC,10-9502	RQMT THAT SEC USAF KEEP LIST OF PLANTS
USC,10-9503	AUTHORITY OF SEC USAF TO PROCURE RESEARCH AND DEVELOPMENT SERVICES
USC,10-9504	AUTHORITY OF SEC USAF TO BUY EXPERIMENTAL ITEMS WITHOUT COMPETITION
USC,10-9505	AUTHORITY OF SEC USAF TO PROCURE PRODUCTION EQMT WITHOUT COMPETITION
USC,10-9506	AUTHORITY OF SEC USAF TO TRANSFER DRAWINGS AND PLANS TO CONTRACTORS
USC,10-9507	SEC USAF MAY SELL TO CERTAIN DESIGNERS CERTAIN ORDNANCE STORES FOR DEVELOPMENT
USC,10-9531	AUTHORITY OF SEC USAF TO PROCURE CERTAIN ITEMS
USC,10-9532	SEC USAF MAY HAVE NEEDED SUPPLIES MADE IN FACILITIES OWNED BY U.S. WHERE FEASIBLE
USC,10-9534	RQMT THAT CONTRACTS FOR USAF SUBSISTANCE SUPPLIES PROVIDE FOR COMPLETE DELIVERY & INSPECTION
USC,10-9535	AUTHORITY TO PROCURE SUBSISTANCE SUPPLIES WITHOUT COMPETITION RE SEC USAF REGS
USC,10-9536	AUTHORITY OF USAF TO PROCURE CERTAIN ITEMS
USC,10-9537	SEC AIR FORCE MAY OBTAIN AID OF VARIOUS GOVERNMENT MAPPING SERVICES
USC,10-9538	AUTHORITY OF SEC USAF TO RECLAIM AMMUNITION
USC,10-9540	AUTHORITY OF SEC USAF TO PROCURE ARCHITECTURAL & ENGINEERING SERVICES - FEE NOT TO EXCEED 6 PCT
USC,10-9591	PROCEEDS FROM AIR FORCE OPERATED PUBLIC UTILITIES AVAILABLE FOR USE IN CERTAIN CASES
USC,10-9621	AUTHORITY OF SEC USAF TO PROCURE ITEMS FOR RESALE
USC,10-9628	SEC USAF MAY SELL CERTAIN PARTS FOR AIRPLANE REPAIR TO CERTAIN CIVILIAN FLYING SCHOOLS
USC,10-9742	AUTHORITY OF PRESIDENT THROUGH SEC USAF TO TAKE POSSESSION OF TRANSPORTATION SYSTEMS
USC,10-9772	PRESIDENT MAY RESERVE UNAPPROPRIATED & OTHER LANDS FOR AIR BASE OR EXPERIMENTS & TESTS
USC,10-9773	AUTHORITY OF SEC USAF TO PROCURE AIR BASES
USC,10-9774	COST LIMITATIONS RE CONSTRUCTION OF QUARTERS FOR AIR FORCE INAPPLICABLE TO OUTSIDE WORK
USC,10-9774	DEFINITION OF NET FLOOR SPACE
USC,10-9774	LIMITATION ON NET FLOOR SPACE RE CONSTRUCTION OF QUARTERS FOR MEMBERS OF AIR FORCE
USC,10-9774	LIMITATION ON NET FLOOR SPACE RE 4 BEDROOM UNITS FOR CERTAIN AIR FORCE PERSONNEL
USC,10-9774	SEC DEFENSE MAY HAVE 4 BEDROOM UNITS CONSTRUCTED TOP CERTAIN AIR FORCE PERSONNEL
USC,10-9774	SEC DEFENSE MAY INCREASE LIMITATIONS ON NET FLOOR SPACE RE AIR FORCE QUARTERS
USC,10-9774	SPECIFIC AUTHORITY OF CONGRESS REQUIRED FOR CONSTRUCTION OF CERTAIN QUARTERS FOR AIR FORCE
USC,10-9776	AUTHORITY TO CONSTRUCT AIRFIELDS AND FORTIFICATIONS ON PRIVATE LAND DURING EMERGENCY
USC,10-9780	AUTHORITY OF SEC USAF TO ACQUIRE BUILDINGS IN THE DISTRICT OF COLOMBIA
USC,10-9802	SEC AIR FORCE MAY SETTLE CLAIMS FOR DAMAGE SALVAGE TOWING CLAIMS CAUSED BY AIR FORCE VESSELS
USC,10-9803	SEC USAF MAY SETTLE CLAIMS & RECEIVE PAYMENT FOR DAMAGE TO PROPERTY UNDER JURISDICTION OF USAF
USC,10-9805	CLAIMS SETTLED UNDER 10 USC 9802 SHALL BE REPORTED TO CONGRESS
USC,10-9831	SEC USAF MAY HAVE CUSTODY OVER CERTAIN PROPERTY UNDER THE LAWFUL CONTROL OF DEPT USAF
USC,11-110	AUTHORITY OF TRUSTEE TO ELECT TO ASSUME A CONTRACT OR LEASE OF A BANKRUPT & CONDITIONS THEREOF
USC,11-599	BANKRUPTCY WHEN THE U.S. IS CREDITOR
USC,11-638	REJECTION OF EXECUTORY CONTRACTS IN BANKRUPTCY PROCEEDINGS
USC,11-778	REJECTION OF EXECUTORY CONTRACTS IN BANKRUPTCY PROCEEDINGS
USC,11-883	REJECTION OF EXECUTORY CONTRACTS IN BANKRUPTCY PROCEEDINGS OF PERSONS OTHER THAN CORPORATIONS
USC,11-931	PROOF AND ALLOWANCE IN BANKRUPTCY OF DEBTS OWING TO U.S.
USC,12-1141B	FARM CREDIT ADMINISTRATION MAY MAKE CERTAIN EXPENDITURES INCLUDING BOOKS PRINTING RENT
USC,12-1141J	SPECULATION BY FARM CREDIT ADMINISTRATION EMPLOYEES IN CERTAIN AREAS IS PROHIBITED
USC,12-1438	ADMINISTRATOR GSA MAY MANAGE & CONTROL FACILITIES ACQUIRED BY FEDERAL HOME LOAN BANK BOARD
USC,12-1438	FEDERAL HOME LOAN BANK BOARD MAY ACQUIRE LAND & CONSTRUCT FACILITIES FOR BOARD & AGENCIES
USC,12-1438	FEDERAL HOME LOAN BANK BOARD MAY SECURE ADVANCES FROM CERTAIN BANKS FOR CERTAIN ACQUISITIONS
USC,12-1438	FISCAL LAW RE LIMITATION ON FUNDS AVAILABLE FOR CERTAIN OBLIGATIONS RE FEDERAL HOME LOAN BOARD
USC,12-1452	AUTHORITY FED HOME LOAN MORTGAGE CORP TO MAKE CONTRACTS, SETTLE CLAIMS, ACQUIRE PROPERTY, ETC
USC,12-1454	AUTHORITY FED HOME LOAN MORTGAGE CORP TO PURCHASE AND DISPOSE OF RESIDENTIAL MORTGAGES
USC,12-1701C	FEDERAL HOME LOAN BANK BOARD TO CONTRACT WITHOUT ADVERTISING RE NATIONAL HOUSING ACT
USC,12-1701C	FEDERAL HOME LOAN BANK BOARD TO MAKE ADVANCE, PROGRESS OR OTHER PAYMENTS RE NATIONAL HOUSING
USC,12-1701C	FEDERAL HOME LOAN BANK MAY MAKE NECESSARY EXPENDITURES RE NATIONAL HOUSING ACT
USC,12-1701C	SEC HUD MAY CONTRACT WITHOUT ADVERTISING RE NATIONAL HOUSING ACT
USC,12-1701C	SEC HUD MAY MAKE ADVANCE & PROGRESS OR OTHER PAYMENTS RE NATIONAL HOUSING ACT
USC,12-1701C	SEC HUD MAY MAKE NECESSARY EXPENDITURES RE NATIONAL HOUSING ACT
USC,12-1701C	SEC HUD MAY USE FUNDS FOR LIBRARY MEMBERSHIPS RE NATIONAL HOUSING ACT
USC,12-1701D3	FISCAL LIMITATION ON CONTRACTS FOR RESEARCH PROGRAMS RE NATIONAL HOUSING ACT
USC,12-1701D3	SEC HUD MAY ACQUIRE DATA FOR RESEARCH PROGRAMS RE NATIONAL HOUSING ACT
USC,12-1701D3	SEC HUD MAY CONTRACT FOR RESEARCH PROGRAMS RE NATIONAL HOUSING ACT
USC,12-1701D3	SEC HUD MAY UNDERTAKE RESEARCH PROGRAMS RE NATIONAL HOUSING ACT
USC,12-1701E	CONTRACT REQUIREMENT THAT RESEARCH RESULTS BE AVAILABLE TO PUBLIC RE HOUSING CONSTRUCTION TECH.
USC,12-1701E	SEC HUD MAY CONTRACT FOR DEVELOPMENT OF HOUSING CONSTRUCTION MATERIALS & METHODS

KEYWORD	
USC,12-1701E	SEC HUD MAY DEVELOP & PROMOTE NEW HOUSING CONSTRUCTION TECHNIQUES, MATERIALS, & METHODS
USC,12-1701F	SEC HUD MAY CONTRACT WITHOUT ADVERTISING RE HOUSING CONSTRUCTION TECHNIQUES
USC,12-1701F	SEC HUD MAY MAKE ADVANCE & PROGRESS PAYMENTS RE HOUSING CONSTRUCTION TECHNIQUES
USC,12-1701F	SEC HUD MAY WORK WITH LABOR, INDUSTRY ON RESEARCH RE HOUSING CONSTRUCTION TECHNIQUES
USC,12-1701G5	FISCAL LAW RE REVOLVING FUND IN CONNECTION WITH LIQUIDATING FUNDS RE NATIONAL HOUSING ACT
USC,12-1701G	CERTAIN LABORERS & MECHANICS EXEMPT FROM RECEIVING PREVAILING WAGES RE HOUSING FOR ELDERLY ETC
USC,12-1701S	FISCAL LAW RE AUTHORIZATION FOR NECESSARY APPROPRIATIONS RE RENT SUPPLEMENT PAYMENTS
USC,12-1701S	SEC HUD MAY ENTER INTO AGREEMENTS NECESSARY TO CARRY OUT PROVISIONS RE RENT SUPPLEMENT PAYMENTS
USC,12-1701S	SEC HUD MAY ENTER INTO AGREEMENTS RE SELECTION OF QUALIFIED TENANTS RE RENT SUPPLEMENT PAYMENTS
USC,12-1701U	SEC HUD MAY REQUIRE EMPLOYMENT OF CERTAIN LOW-INCOME PERSONS RE CERTAIN PROGRAMS
USC,12-1701U	SEC HUD MAY REQUIRE EMPLOYMENT OF LOCAL FIRMS RE CERTAIN PROGRAMS
USC,12-1701W	SEC HUD MAY PROVIDE DEBT MGT & RELATED SERVICES FOR CERTAIN MORTGAGORS
USC,12-1701X	SEC HUD MAY PROVIDE INFORMATION & TECHNICAL ASSISTANCE RE MORTGAGE & LOW INCOME HOUSING
USC,12-1701Z	LIMITATION OF AUTHORITY SEC HUD RE EXPERIMENTAL HOUSING
USC,12-1701Z	SEC HUD MAY SOLICIT PLANS FOR EXPERIMENTAL HOUSING ON CERTAIN FEDERAL LAND
USC,12-1701	SEC HUD TO INSURE THAT CONSTRUCTION WORKERS RE HOUSES FOR HANDICAPPED ARE PAID PREVAILING WAGE
USC,12-1702	EXAMINATION & INSURANCE OF LOANS ARE PAYABLE FROM FUNDS ALLOCATED RE NATIONAL HOUSING
USC,12-1702	LIMITATION ON FUNDS TO BE USED FOR DISPOSITION OF ANY PROPERTY OF HUD RE NATIONAL HOUSING
USC,12-1702	SEC HUD MAY ESTABLISH NECESSARY AGENCIES RE MORTGAGE INSURANCE & NAT. DEFENSE HOUSING INSURANCE
USC,12-1702	SEC HUD TO ESTABLISH NECESSARY AGENCIES RE HOUSING RENOVATION & MORTGAGE INSURANCE
USC,12-1703	CONDITIONS ON AUTHORITY SEC HUD TO DISPOSE OF CERTAIN PROPERTY RE INSURANCE OF FINANCIAL INST
USC,12-1703	SEC HUD MAY DISPOSE OF PROPERTY ACQUIRED AS RESULT OF CREDIT INSURANCE AGREEMENTS
USC,12-1705	FISCAL LAW RE ALLOCATION OF FUNDS RE HOUSING RENOVATION & MORTGAGE INSURANCE
USC,12-1706D	APPLICABILITY OF CERTAIN PROVISIONS TO STATES RE HOUSING RENOVATION
USC,12-1706D	SEC HUD MAY INSURE FINANCIAL INSTITUTIONS IN STATES, TERRITORIES ETC RE HOUSING RENOVATION
USC,12-1706D	SEC HUD MAY INSURE MORTGAGES IN STATES, TERRITORIES ETC RE HOUSING RENOVATION
USC,12-1710	ADVERTISING NOT REQUIRED FOR CONTRACTS FOR SERVICES ON PROPERTY CONVEYED TO SEC HUD - DEBENTURE
USC,12-1710	AUTHORITY SEC HUD TO SELL PROPERTIES CONVEYED TO HIM IN EXCHANGE FOR CERTIFICATES OF CLAIM
USC,12-1710	AUTHORITY SEC HUD TO SELL PROPERTIES CONVEYED TO HIM IN EXCHANGE FOR DEBENTURES
USC,12-1710	CONTRACTS FOR HAZARD INSURANCE RE HOUSING RENOVATION DO NOT REQUIRE ADVERTISING
USC,12-1710	SEC HUD MAY COLLECT BY COMPROMISE ETC CLAIMS AGAINST MORTGAGORS ASSIGNED TO SEC HUD
USC,12-1710	SEC HUD MAY RENT, SELL, INSURE ETC PROPERTIES CONVEYED TO HIM FOR DEBENTURES
USC,12-1713	HAZARD INSURANCE NEED NOT BE ADVERTISED RE MORTGAGE INSURANCE
USC,12-1713	SEC HUD MAY COLLECT BY COMPROMISE ETC CLAIMS ASSIGNED TO SEC RE MORTGAGE INSURANCE
USC,12-1713	SEC HUD MAY FORECLOSE UPON DEFAULT ON PROPERTY SECURED BY A MORTGAGE HELD BY SEC HUD
USC,12-1713	SEC HUD MAY RENT, RENOVATE, SELL ETC PROPERTY ACQUIRED BY CONVEYANCE OR FORECLOSURE
USC,12-1715C	EXCEPTION TO REQUIREMENT THAT CONTRACTORS MEET DAVIS-BACON RE MORTGAGE INSURANCE
USC,12-1715C	SEC HUD SHALL NOT INSURE MORTGAGES UNLESS CONTRACTOR MEETS LABOR STANDARDS OF DAVIS-BACON
USC,12-1715X	SEC HUD MAY CONTRACT FOR EXPERIMENTAL HOUSING MORTGAGE INSURANCE
USC,12-1715Z-2	FISCAL LAW RE SPECIAL MORTGAGE INSURANCE ASSISTANCE
USC,12-1715Z-2	SEC HUD MAY CONTRACT FOR COUNSELING TO MORTGAGORS HOLDING SPECIAL MORTGAGE INSURANCE
USC,12-1715Z	SEC HUD MAY CONTRACT FOR ASSISTANCE PAYMENTS TO MIDDLE INCOME FAMILY RE EMERGENCY HOME FINANCE
USC,12-1715	AUTHORITY SEC HUD TO MAKE STATISTICAL ECONOMIC SURVEYS RE HOUSING DEVELOPMENT & MORTGAGE MARKET
USC,12-1723A	FEDERAL NATIONAL MORTGAGE ASSOC. MAY LEASE, RENT, SELL ETC PROPERTY
USC,12-1723A	FEDERAL NATIONAL MORTGAGE ASSOC. MAY ENTER CONTRACTS LEASES ETC
USC,12-1723A	GOVT NATIONAL MORTGAGE ASSOC. MAY ENTER CONTRACTS LEASES ETC
USC,12-1723A	GOVT NATIONAL MORTGAGE ASSOC. MAY LEASE, RENT, SELL ETC PROPERTY
USC,12-1723A	NO ATTACHMENT OR INJUNCTION ETC ISSUED AGAINST FEDERAL NATIONAL MORTGAGE ASSOC. PROPERTY
USC,12-1723A	NO ATTACHMENT OR INJUNCTION ETC TO BE ISSUED AGAINST PROPERTY OF GOVT NAT. MORTGAGE ASSOC
USC,12-1725E	SEC HUD MAY MAKE EXPENDITURES TO CORRECT OR COMPENSATE FOR DEFECTS IN MORTGAGED HOMES
USC,12-1725	FEDERAL SAVINGS LOAN INSURANCE CORP EXEMPT FROM LAWS GOVERNING EXPENDITURES OF PUBLIC FUNDS
USC,12-1735C	SEC HUD MAY PRESCRIBE FINAL & CONCLUSIVE REGULATIONS RE EXPENDITURES FOR HOMES WITH DEFECTS
USC,12-1735C	TREATMENT OF CHARGES, RECEIPTS ETC FROM PROPERTY COVERED BY MORTGAGE RE GENERAL INSURANCE FUND
USC,12-1735	LIMITATION ON AUTHORITY SEC HUD TO CORRECT OR COMPENSATE FOR DEFECTS IN MORTGAGED HOMES
USC,12-1739	ADVERTISING NOT REQUIRED FOR SERVICES ON PROPERTY CONVEYED TO SEC HUD FOR DEBENTURES RE HOUSING
USC,12-1739	CONTRACTS FOR HAZARD INSURANCE RE WAR HOUSING INSURANCE DO NOT REQUIRE ADVERTISING
USC,12-1739	LIMITATION ON AUTHORITY SEC HUD TO SUE ON CLAIM AGAINST MORTGAGOR RE WAR HOUSING INSURANCE
USC,12-1739	SEC HUD MAY COLLECT BY COMPROMISE ETC CLAIMS AGAINST MORTGAGORS RE WAR HOUSING INSURANCE
USC,12-1739	SEC HUD MAY RENT, SELL ETC PROPERTIES CONVEYED TO SEC HUD FOR DEBENTURES RE WAR HOUSING INSUR.
USC,12-1743A	FISCAL LAW RE NONADMINISTRATIVE EXPENSES OF FEDERAL HOME LOAN BANK BOARD
USC,12-1747G	ADVERTISING NOT REQUIRED ON CONTRACTS FOR SERVICES ON RENTAL HOUSING
USC,12-1747G	CONTRACT FOR HAZARD INSURANCE RE RENTAL HOUSING DO NOT REQUIRE ADVERTISING
USC,12-1747G	SEC HUD MAY COLLECT BY COMPROMISE ETC CLAIMS ASSIGNED TO HUD RE RENTAL HOUSING
USC,12-1747G	SEC HUD MAY RENT, SELL ETC PROPERTY CONVEYED TO SEC HUD FOR DEBENTURES RE RENTAL HOUSING
USC,12-1747K	SEC HUD MAY ACT THROUGH STATES RE RENTAL HOUSING PROJECTS
USC,12-1747K	SEC HUD MAY PRESCRIBE REGULATIONS FOR RENTAL HOUSING
USC,12-1748B	LIMITATION ON AUTHORITY SEC HUD TO INSURE MORTGAGES RE ARMED SERVICES HOUSING
USC,12-1749AAA	SEC HUD MAY OBTAIN & PROVIDE TECHNICAL ASSISTANCE IN PLANNING GROUP PRACTICE CONSTRUCTION
USC,12-1749A	SEC HUD MAY DEAL WITH CERTAIN PURCHASES PROPERTIES RE HOUSING FOR EDUCATIONAL INSTITUTIONS
USC,12-1749A	SEC HUD MAY PURCHASE CERTAIN PROPERITES FOR HOUSING FOR EDUCATIONAL INSTITUTIONS
USC,12-1749A	SEC HUD SHALL INSURE THAT WORKER EMPLOYED BY CONTRACTORS RE EDUCATION HOUSING RE DAVIS-BACON
USC,12-1749A	SEC HUD SHALL INSURE WORKERS ON EDUCATION HOUSING SHALL BE PAID 1 1/2 TIME FOR OVERTIME
USC,12-1749BBB-12	SEC HUD MAY CONTRACT WITH INSURERS, POOLS TO PERFORM FUNCTIONS RE NATIONAL INSURANCE DEV.
USC,12-1749D	LIMITATION ON EXPENSES RE HOUSING FOR EDUCATIONAL INSTITUTIONS
USC,12-1749D	SERVICE CONTRACTS ON CERTAIN PURCHASES PROPERTIES FOR EDUCATIONAL HOUSING RE ADVERTISING
USC,12-1749	LIMITATIONS ON CONTRACTS FOR GRANTS RE CONSTRUCTION OF HOUSING FOR EDUCATIONAL INSTITUTIONS
USC,12-1750C	ADDITIONAL COSTS ON FORECLOSED MORTGAGES UNDER CERTAIN CONDITIONS RE NATIONAL DEFENSE HOUSING
USC,12-1750C	CERTIFICATES OF CLAIM SEE
USC,12-1750C	SEC HUD MAY HANDLE & DISPOSE OF PROPERTY CONVEYED TO HIM IN EXCHANGE FOR DEBENTURES

KEYWORD	
USC,12-1750C	SEC HUD MAY HANDLE & DISPOSE OF PROPERTY & SETTLE CLAIMS RE NATIONAL DEFENSE HOUSING
USC,12-1750C	SEC HUD SHALL HAVE POWER TO PURSUE CLAIMS AGAINST MORTGAGORS RE NATIONAL DEFENSE HOUSING
USC,12-1766	DIRECTOR BUREAU FEDERAL CREDIT UNIONS TO ESTABLISH PROGRAMS FOR MORE EFFECTIVE OPERATIONS
USC,12-1766	DIRECTOR BUREAU OF FEDERAL CREDIT UNIONS TO CONTRACT & GRANT FOR CONSUMER COUNSELING
USC,12-1766	DIRECTOR BUREAU OF FEDERAL CREDIT UNIONS TO CONTRACT & GRANT TO TRAIN PERSONS
USC,12-1766	FISCAL LAW RE GRANTS & CONTRACTS MADE BY DIRECTOR BUREAU OF FEDERAL CREDIT UNIONS
USC,12-1788	AUTHORITY ADMINISTRATOR NAT CREDIT UNION ADM TO MAKE CONTRACTS WITHOUT REGARD TO FPASA
USC,12-1788	AUTHORITY ADMINISTRATOR NAT CREDIT UNION ADM TO PURCHASE THE ASSETS OF INSURED CREDIT UNIONS
USC,12-1789	GENERAL AUTHORITY ADMINISTRATOR NAT CREDIT UNION ADM TO MAKE CONTRACTS
USC,12-17	SEC HUD MAY INSURE PREVAILING WAGES FOR LABORERS & MECHANICS RE HOUSING FOR ELDERLY OR HANDICAPPED
USC,12-1827	COMP GEN MAY CONTRACT WITH OUTSIDE FIRMS FOR AUDIT OF FDIC WITHOUT ADVERTISING
USC,12-265	AUTHORITY SEC TREASURY TO DEPOSIT PUBLIC MONIES IN INSURED BANKS DESIGNATED FOR THAT PURPOSE
USC,12-635	POWERS & FUNCTIONS OF THE EXPORT-IMPORT BANK OF THE UNITED-STATES
USC,12-636H	FARM CREDIT ADMINISTRATION TO MAKE NECESSARY ADMINISTRATIVE & OPERATIONAL EXPENDITURES
USC,12-640	FARM CREDIT ADMIN MAY APPROVE PROPERTY ACQUISITIONS MADE BY CERTAIN FEDERAL LAND & CREDIT BANKS
USC,12-640	POWERS OF FARM CREDIT BOARDS ARE SUBJECT TO APPROVAL OF FARM-CREDIT ADMINISTRATION
USC,12-640	REAL-ESTATE CONTRACTS RE FARM-SECURITY ADMINISTRATION MAY-NOT PREVENT PREPAYMENT OF PURCHASE
USC,12-813	GOVERNMENT SHALL-NOT PURCHASE OR SUBSCRIBE FOR CAPITAL STOCK OF FEDERAL LAND BANKS
USC,12-833	FARM CREDIT ADMINISTRATION MAY PURCHASE DATA & EMPLOY PERSONNEL FOR SPECIAL SERVICES
USC,12-95	AUTHORITY PRESIDENT DURING WAR OR NATIONAL EMERGENCY TO PROHIBIT TRANSACTIONS IN SECURITIES
USC,12-95	AUTHORITY PRESIDENT DURING WAR OR NATIONAL EMERGENCY TO PROHIBIT TRANSACTIONS RE BULLION & COIN
USC,12-95	AUTHORITY PRESIDENT DURING WAR OR NATIONAL EMERGENCY TO REGULATE TRANSACTIONS IN SECURITIES
USC,12-95	AUTHORITY PRESIDENT DURING WAR OR NATIONAL EMERGENCY TO REGULATE TRANSACTIONS RE BULLION & COIN
USC,12-972	FARM CREDIT ADMINISTRATION MAY EMPLOY SPECIAL COUNSEL RE ELIGIBILITY OF MORGAGES FOR FARM LOAN
USC,13-11	FISCAL LAW RE CENSUS
USC,13-12	SEC COMMERCE MAY MAKE DEVELOPMENT CONTRACTS FOR MECHANICAL & ELECTRICAL WORK FOR THE CENSUS
USC,13-13	SEC COMMERCE MAY CONTRACT WITH RESEARCH ORGANIZATIONS FOR PREPARATION OF MONOGRAPHS ETC
USC,13-24	AUTHORITY SEC COMMERCE TO EXPEND SUMS FOR TRAVEL EXPENSES OF ATTENDEES OF DEPT TRAINING COURSES
USC,13-24	AUTHORITY SEC COMMERCE TO REIMBURSE FOR TELEPHONE CALLS FOR COLLECTING CENSUS SURVEY INFORMATION
USC,13-26	SEC COMMERCE MAY CONTRACT WITH FIELD EMPLOYEES FOR RENTAL & USE OF TRANSPORTATION FAC. FOR CENSUS
USC,14-141	INTERAGENCY COOPERATION WITH COAST GUARD AUTHORIZED
USC,14-145	SEC NAVY AT REQUEST OF SEC TREASURY MAY BUILD ANY VESSEL FOR COAST GUARD
USC,14-147	AUTHORITY COAST-GUARD TO PROCURE & MAINTAIN FACILITIES TO OBSERVE INVESTIGATE WEATHER PHENOMENA
USC,14-151	CG CONTRACTS WITH GOVT OWNED ESTABLISHMENTS FOR WORK & MATERIALS CREATE SAME OBLIGATIONS
USC,14-163	AUTHORITY SEC TRANSPORTATION TO PRESCRIBE SUMS FOR CLOTHING ALLOWANCE OF COAST-GUARD CADETS
USC,14-2	CG SHALL ENGAGE IN OCEANOGRAPHIC RESEARCH ON WATER
USC,14-2	CG WILL DEVELOP & MAINTAIN AIDS TO NAVIGATION, RESCUE FACILITIES ETC FOR SAFETY ON WATER
USC,14-3	TRANSFER OF CG FROM DOT TO NAVY UNDER CERTAIN CIRCUMSTANCES
USC,14-468	AUTHORITY COAST-GUARD RE EXPENDITURES INCLUDING ADVERTISING TO RECRUIT CADETS
USC,14-469	AUTHORITY OF COAST-GUARD RE EXPENDITURES FOR TRAINING PERSONNEL
USC,14-470	COAST-GUARD DEFRAYS COSTS OF SPECIAL INSTRUCTION OF THEIR PERSONNEL AT COLLEGES & UNIVERSITIES
USC,14-475	AUTHORITY SEC TRANSPORTATION TO LEASE HOUSING FACILITIES AT OR NEAR COAST-GUARD INSTALLATIONS
USC,14-476	FISCAL LAW RE CONTINGENT EXPENSES OF COAST-GUARD & COAST-GUARD ACADEMY
USC,14-477	AUTHORITY COAST-GUARD FOR SAFETY OCCUPATIONAL-HEALTH ACCIDENT PREVENTION RE THEIR PERSONNEL
USC,14-485	CG MAY PURCHASE CLOTHING FOR SALE TO OFFICERS, CADETS, & ENLISTED PERSONNEL
USC,14-486	AUTHORITY COAST-GUARD TO FURNISH CLOTHING + SUBSISTENCE TO DESTITUTE SHIPWRECKED PERSONS
USC,14-486	CG MAY REIMBURSE PERSONNEL FOR FURNISHING CLOTHING & SUBSISTENCE TO DESTITUTE SHIPWRECKED PERSON
USC,14-487	SEC NAVY OR DOT MAY ACQUIRE & SELL STORES TO CG OFFICERS, ENLISTEES, EMPLOYEES ETC
USC,14-507	REGS-RE-DISPOSITION OF EFFECTS OF DECEDENTS IN COAST-GUARD UNCLAIMED BY HEIRS OR NEXT OF KIN
USC,14-509	SEC NAVY OR DOT MAY FURNISH NECESSARY CLOTHS TO NEEDY PERSONS DISCHARGED RE COURT-MARTIAL
USC,14-5	DEFINITION OF SECRETARY RE OPERATION OF COAST GUARD
USC,14-648	SEC NAVY OR DOT MAY PRESCRIBE ACCOUNTING REGS FOR INDUSTRIAL WORK AT CG SITES & WORKING FUNDS
USC,14-650	SEC NAVY OR DOT MAY PRESCRIBE REGULATIONS FOR CG SUPPLY FUND & INCREASE CAPITAL OF FUND
USC,14-651	CG COMMANDANT SHALL REPORT EVERY JAN TO CONGRESS RE OPERATIONS & EXPENDITURES OF PRECEEDING YEAR
USC,14-652	DURING WAR OF NATIONAL EMERGENCY ANY LAW REMOVING RESTRICTION ON NAVY SHALL APPLY TO CG
USC,14-654	AIRCRAFT WHEN OTHERWISE UNAVAILABLE
USC,14-654	FISCAL LAW RE COAST GUARD
USC,14-655	NO TAX ON SALE OR TRANSFER OF ARMS & AMMUNITION BOUGHT BY CG
USC,14-656	SEC DOT OR NAVY MAY USE CG APPROPRIATIONS TO INSTALL PUBLIC WORKS AT 200,000 MAXIMUM
USC,14-656	SEC DOT OR NAVY MAY USE CG APPROPRIATIONS TO RESTORE, REPAIR, OR REPLACE FACILITIES
USC,14-657	SEC DOT MAY USE CG APPROPRIATIONS FOR TRANSPORT OF CG DEPENDANTS BETWEEN SCHOOL & CG FACILITY
USC,14-761	CG RESERVE MEMBER SHALL NOT BE PROHIBITED FROM PRACTICING HIS CIVILIAN PROFESSION RE GOVT DEPT
USC,14-81	CG MAY ESTABLISH & MAINTAIN AID TO NAVIGATION TO PREVENT DISASTERS OF VESSELS & AIRCRAFT
USC,14-830	FISCAL LAW RE COAST GUARD AUXILIARY
USC,14-86	AUTHORITY SEC TRANSPORTATION TO MARK OBSTRUCTIONS ON WATERS FOR PROTECTION OF NAVIGATION
USC,14-86	OWNERS OF OBSTRUCTIONS ON NAVIGABLE WATERS ARE LIABLE TO U.S. FOR COSTS OF MARKING OBSTRUCTIONS
USC,14-891	SEC NAVY OR DOT MAY PRESCRIBE & FURNISH FLAGS, PENNANTS, UNIFORMS ETC FOR CG RESERVE & AUXILIARY
USC,14-894	FISCAL LAW RE COAST GUARD (SEE CG)
USC,14-92	SEC DOT OR NAVY MAY EXECUTE DUTIES OF CG AND EXCHANGE LAND FOR OTHER LAND
USC,14-92	SEC DOT & NAVY MAY EXECUTE DUTIES OF CG IN CONSTRUCTING SHORE INSTALLATIONS
USC,14-92	SEC DOT & NAVY MAY EXECUTE DUTIES OF COAST GUARD AND ACQUIRE LAND
USC,14-92	SEC DOT & NAVY TO EXECUTE DUTIES OF CG TO DESIGN , ACQUIRE & DISPOSE OF VESSELS
USC,14-93	CG COMMANDANT MAY ACQUIRE & MAINTAIN TELEPHONE & TELEGRAPH LINES & NECESSARY REAL PROPERTY
USC,14-93	CG COMMANDANT MAY ACQUIRE, MAINTAIN, & DISCONTINUE AIDS TO NAVIGATION ETC
USC,14-93	CG COMMANDANT MAY ACQUIRE, MAINTAIN, & REPAIR SMALL CRAFT, PATROL BOATS, AIRCRAFT & VEHICLES
USC,14-93	CG COMMANDANT MAY DISPOSE OF SMALL CRAFT, VEHICLES & AIRCRAFT SUBJECT TO FED PROP ADMIN SER ACT
USC,14-93	CG COMMANDANT MAY EQUIP, OPERATE, & MAINTAIN COAST GUARD DISTRICTS & SHORE ESTABLISHMENTS
USC,14-93	CG COMMANDANT MAY ESTABLISH & MAINTAIN RADIO TRANSMITTING & RECEIVING STATIONS
USC,14-94	COAST-GUARD SHALL CONDUCT OCEANOGRAPHIC RESEARCH IN COOPERATION WITH GOVT AGENCIES

KEYWORD	
USC,15-1022	PRESIDENTS ECONOMIC REPORT TO CONGRESS
USC,15-1023	COUNCIL OF ECONOMIC ADVISERS TO REPORT TO PRESIDENT ON PROGRAMS & ACTIVITIES OF AGENCIES
USC,15-1024A	FISCAL RE JOINT-ECONOMIC-COMMITTEE OF THE CONGRESS
USC,15-1395	AUTHORITY SEC TRANSPORTATION TO MAKE GRANTS FOR RESEARCH RE NATIONAL MOTOR VEHICLE STANDARDS
USC,15-1408	AUTHORITY OF SEC COMMERCE TO PROCURE EXPERIMENTAL MOTOR VEHICLES FOR RESEARCH
USC,15-1408	SEC COMMERCE TO REPORT TO CONGRESS ON RESEARCH GRANTS & CONTRACTS FOR VEHICLE SAFETY
USC,15-1405	FISCAL LAW
USC,15-1431	AUTHORITY SEC DOT TO CONSTRUCT R&D FACILITIES RE TRAFFIC SAFETY
USC,15-15A	US MAY SUE IN DISTRICT COURT WITHOUT RESPECT TO AMOUNT IN CONTROVERSY
USC,15-15A	US MAY SUE IN DISTRICT COURT + SHALL RECOVER ACTUAL DAMAGES BY IT SUSTAINED + THE COST OF SUIT
USC,15-1514	AUTHORITY SEC COMMERCE TO CONTRACT FOR SUPPLIES, SERVICES, & FACILITIES FOR GOVT DEPENDENTS
USC,15-1514	AUTHORITY SEC COMMERCE TO CONTRACT FOR SUPPLIES, SERVICES, & FACILITIES FOR GOVT EMPLOYEES
USC,15-1518	AUTHORITY SEC COMMERCE TO RENT QUARTERS FOR THE DEPT & SUPPLIES
USC,15-1521	FISCAL LAW
USC,15-272	SEC COMMERCE AUTHORIZED CERTAIN ACTS REGARDING STANDARDS OF MEASUREMENT
USC,15-276	TITLE OF PROPERTY OF BUREAU OF STANDARDS IN DEPT OF COMMERCE
USC,15-278C	AUTHORITY SEC COMMERCE TO ACQUIRE LAND FOR FIELD SITES RE BUREAU OF STANDARDS
USC,15-278(B)	WORKING CAPITOL FUND AVAILABLE TO BUREAU OF STANDARDS
USC,15-278(F)&(G)	SEC COMMERCE AUTHORIZED TO CONTRACT OR ISSUE GRANTS FOR FIRE RESEARCH
USC,15-278	BUREAU OF STANDARDS, SEC COMMERCE AUTHORIZED TO PURCHASE, REPAIR, CONSTRUCT FACILITIES & SUPPLIES
USC,15-281	BUILDING MATERIALS PURCHASED FOR THE DISTRICT-OF-COLUMBIA SHALL BE TESTED BY BUREAU OF STANDARDS
USC,15-290(B)	SEC COMMERCE AUTHORIZED TO PROVIDE FOR STANDARDIZED REFERENCE DATA
USC,15-325	FISCAL LAW
USC,15-326	WEATHER BUREAU AUTHORIZED TO MAINTAIN PRINTING OFFICE
USC,15-328	MILITARY AGENCIES AUTHORIZED TO TRANSFER SUPPLIES TO WEATHER BUREAU
USC,15-42	AUTHORITY OF FTC TO RENT OFFICES, INCURE EXPENSES, TRANSPORTATION
USC,15-504	TEXTILE FOUNDATION AUTHORIZATION TO PURCHASE PROPERTY
USC,15-603C	RESTRICTION ON USE OF FUNDS FOR RECONSTRUCTION FINANCE CORPORATION
USC,15-631	SMALL BUSINESS AID POLICY
USC,15-632	DEFINITION OF SMALL BUSINESS
USC,15-633	SBA LOAN POLICY BOARD
USC,15-633	SBA REVOLVING FUND
USC,15-634	SBA AUTHORITY TO ACQUIRE & MAINTAIN PROPERTY
USC,15-636	SBA AUTHORITY TO MAKE LOANS / GRANTS FOR RESEARCH OF SMALL BUSINESS OPERATIONS
USC,15-637	AUTHORITY SBA TO CONTRACT WITH GOVT AGENCIES RE SECTION 8A CONTRACTS
USC,15-637	AUTHORITY SBA TO MAKES STUDIES + RECOMMENDATIONS RE SECTION 8A CONTRACTS
USC,15-637	DUTIES SBA RE SECTION 8A CONTRACTS
USC,15-637	PROVISION REQUIRED IN CERTAIN CONTRACTS RE SMALL BUSINESS SUBCONTRACTING
USC,15-637	PUBLICATION OF CERTAIN PROPOSED GOVT PURCHASES REQUIRED IN COMMERCE BUSINESS DAILY
USC,15-637	SBA AUTHORITY TO CONTRACT WITH GOVT AGENCIES & SUBCONTRACT PERFORMANCE WITH SMALL BUSINESS
USC,15-637	SBA TO PROMOTE FAIR PROPORTION OF CONTRACTS TO SMALL BUSINESS
USC,15-637	SBA TO PROVIDE MANAGERIAL AID, IDENTIFY & CERTIFY SMALL BUSINESS STATUS
USC,15-637	SBA + DOD SHALL DEVELOP SMALL BUSINESS SUBCONTRACTING PROGRAM
USC,15-637	SEC COMMERCE TO PUBLISH PROPOSED GOVT PROCUREMENTS
USC,15-637	SUBCONTRACTING INFORMATION REQUIRED IN REPORT TO CONGRESS
USC,15-638	APPROVAL OF ATTY GENERAL & CHAIRMAN OF FTC OF JOINT RESEARCH - ANTITRUST LAWS
USC,15-638	SBA TO ASSIST SMALL BUSINESS IN R&D
USC,15-633(A)	BOARD FOR BI-ANNUAL REVIEW OF SBA BUSINESS LOAN PLAN BY CONGRESS
USC,15-639	ATTY GENERAL TO SURVEY GOVT ACTIVITY INJURIOUS TO SMALL BUSINESS & CONGRESSIONAL REPORT
USC,15-639	MONTHLY REPORT BY DOD TO PRESIDENT & CONGRESS ON FUNDS TO SMALL BUSINESS
USC,15-639	SBA REPORT TO CONGRESS / PRESIDENT OF CONTRACTS & EXPENDITURES
USC,15-640	ANTI-TRUST LAWS DO NOT PREVENT PRESIDENT FROM ENCOURAGING SMALL BUSINESS AGREEMENTS
USC,15-641	PRESIDENT MAY TRANSFER ANY AGENCY SMALL BUSINESS FUNCTION TO SBA
USC,15-642	CERTIFICATION TO SBA OF EMPLOYMENT OF PERSON OF THE ADMINISTRATION
USC,15-643	CHARGE CONTRACTOR FOR USE OF GOVT OWNED PROPERTY RE SMALL BUSINESS
USC,15-644	SMALL BUSINESS TO RECEIVE AWARD OF CONTRACT IF NATIONAL POLICY PROMOTED
USC,15-645	CRIMINAL PENALTY FOR CONCEALING OR CONVERTING PROPERTY HELD BY SBA
USC,15-645	CRIMINAL PENALTY FOR FALSE STATEMENTS OR OVERVALUING SECURITIES TO INFLUENCE SBA
USC,15-645	CRIMINAL PENALTY FOR SBA PERSONNEL TO EMBEZZLE OR MAKE FALSE STATEMENT
USC,15-646	SBA PROPERTY INTEREST HELD AS SECURITY FOR LOAN SUBORDINATE TO STATE TAX LIEN
USC,15-647	SBA SHALL NOT DUPLICATE WORK OF OTHER AGENCY UNLESS AUTHORIZED BY OTHER LAW
USC,15-661	CONGRESSIONAL POLICY TO STIMULATE SMALL BUSINESS BY LOANS
USC,15-671	SMALL BUSINESS INVESTMENT DIVISION IS ESTABLISHED AS A DIVISION IN SBA
USC,15-681	SBA MUST APPROVE ARTICLES OF INCORPORATION OF SMALL BUSINESS INVESTMENT COMPANIES
USC,15-682	CAPITAL REQUIREMENTS OF SMALL BUSINESS INVESTMENT COMPANIES
USC,15-683	SBA MAY PURCHASE UNDER CERTAIN CONDITIONS DEBENTURES OF SMALL BUSINESS INVESTMENT COMPANIES
USC,15-684	AUTHORITY SMALL BUSINESS INVESTMENT COMPANIES TO PROVIDE EQUITY CAPITAL TO SMALL BUSINESS
USC,15-685	SBA SHALL DETERMINE INTEREST RATE ON LOANS MADE BY SMALL BUSINESS INVESTMENT COMPANIES
USC,15-686	AGGREGATE LIMITATIONS ON AMOUNT OF ASSISTANCE BY SMALL BUSINESS INVESTMENT COMPANIES
USC,15-687	ANNUAL REPORT REQUIRED ON SMALL BUSINESS INVESTMENT COMPANIES ACTIVITIES
USC,15-687	AUTHORITY SBA TO MAKE REGULATIONS RE SMALL BUSINESS INVESTMENT COMPANIES
USC,15-692	AUTHORITY SBA TO GUARANTEE PAYMENT OF LEASE RENTALS MADE BY SMALL BUSINESSES
USC,15-693	AUTHORITY TO MAKE AND ASSIGN LEASES TO LIQUIDATE SBA OBLIGATION
USC,15-694	REVOLVING FUND ESTABLISH FOR USE BY SBA IN MAKING LEASE GUARANTEES
USC,15-695	AUTHORITY SBA TO MAKE LOANS TO STATE DEVELOPMENT COMPANIES
USC,15-696	AUTHORITY SBA TO MAKE LOANS FOR PLANT CONSTRUCTION CONVERSION EXPANSION
USC,15-712A	LIMITATION OF OBLIGATIONS FOR ADMINISTRATIVE EXPENSES OF CERTAIN AGENCIES
USC,15-712A	LIMITATION ON LIFE OF CERTAIN AGENCIES
USC,15-713A-10	AUTHORITY COMMODITY CREDIT CORP TO MAKE CONTRACTS WITHOUT REGARD TO FISCAL YEAR LIMITATIONS

KEYWORD	
USC,15-713A-10	FISCAL LAW
USC,15-713A-13	POLICY FOR AGENCIES TO USE PRIVATE COMPETITIVE TRADE CHANNELS
USC,15-713A-7	COMMODITY CREDIT CORP AUTHORIZED TO EXCHANGE SURPLUS AGRICULTURAL GOODS - CRITICAL MATERIALS
USC,15-713A-8	SEC AGRICULTURE AUTHORITY TO ENCOURAGE EXPANSION OF AGRICULTURAL PRODUCTION DURING EMERGENCY
USC,15-713A-9	AGENCY REIMBURSEMENT TO COMMODITY CREDIT CORP FOR PURCHASES
USC,15-713C-1	FEDERAL SURPLUS COMMODITIES CORP ANNUAL REPORT TO CONGRESS
USC,15-713C-2	AUTHORITY SEC AGRICULTURE TO DIVERT SURPLUS FISH PRODUCTS
USC,15-713C-3	FISCAL LAW
USC,15-714B	AUTHORITY COMMODITY CREDIT CORP TO CONTRACT FOR HANDLING AGRICULTURAL COMMODITIES
USC,15-714C	COMMODITY CREDIT CORP AUTHORIZED TO [illegible] GOODS FOR SALE TO OTHER AGENCIES, ETC
USC,15-714J	COMMODITY CREDIT CORP AUTHORIZED TO CONTRACT WITH ASSNS IN CONDUCT OF BUSINESS
USC,15-714L	CONTRACTS COMMODITY CREDIT CORP SUBJECT TO SEC-22 TITLE 41 EXCEPT FARMERS IN PROGRAM
USC,15-714K	TRANSFER OF ASSETS OF COMMODITY CREDIT CORPORATION
USC,15-714P	INNOCENT PURCHASER RELIEVED OF CLAIMS BY COMMODITY CREDIT CORP BASED ON WANT OF AUTHORITY
USC,15-77DD	AUTHORITY OF SECURITIES EXCHANGE COMMISSION TO CONTRACT, LEASE REAL PROPERTY
USC,15-77GG	FOREIGN SECURITY HOLDERS CORP ANNUAL REPORT TO SEC & TO BOTH HOUSES OF CONGRESS
USC,16-1A-2(A)	AUTHORITY SEC INTERIOR TO PROVIDE TRANSPORTATION FOR ISOLATED NATIONAL PARK SYSTEM EMPLOYEES
USC,16-1A-2(B)	SEC INTERIOR MAY PROVIDE RECREATION FACILITIES TO PARK EMPLOYEES ISOLATED BY WORK
USC,16-1A-2(D)	AUTHORITY SEC INTERIOR TO PURCHASE SPECIAL PURPOSE EQUIPMENT RE NATIONAL PARK SYSTEM
USC,16-1A-2(E)	SEC INTERIOR MAY CONTRACT FOR SALE OR LEASE OF RESOURCES IN NATIONAL PARK SYSTEM
USC,16-1A-2(F)	SEC INTERIOR MAY ACQUIRE AIR CONDITIONERS IN GOVT VEHICLES IN PARK SYSTEM
USC,16-1B	SEC INTERIOR MAY ACQUIRE RIGHTS OF WAY FOR CERTAIN PURPOSES RE NATIONAL PARKS
USC,16-1B	SEC INTERIOR MAY CONTRACT FOR SALE, MAINTENANCE ETC OF GOVT UTILITY FACILITIES RE NATIONAL PARKS
USC,16-1B	SEC INTERIOR MAY ERECT & MAINTAIN UTILITY FACILITIES RE NATIONAL PARK SYSTEM
USC,16-1D	FISCAL LAW RE NATIONAL PARK SYSTEM
USC,16-1002	NO APPROPRIATION FOR CONSTRUCTION PROJECTS FOR FLOOD PREVENTION WITHOUT CONGRESS' APPROVAL
USC,16-1003	SEC AGRICULTURE MAY PROVIDE ASSISTANCE TO LOCAL ORGANIZATION FOR FLOOD PREVENTION
USC,16-1004	CONDITIONS FOR FEDERAL ASSISTANCE IN PROJECTS FOR FLOOD PREVENTION
USC,16-1005	CERTAIN PLANS MUST BE SUBMITTED TO SEC INTERIOR OR ARMY BEFORE SENT TO CONGRESS RE FLOODS
USC,16-1005	PRESIDENT MAY MAKE REGULATIONS FOR FLOOD PROTECTION
USC,16-1005	SEC AGRICULTURE MAY CONTRACT FOR CONSTRUCTION ON NON-FEDERAL LAND RE LOCAL WATERSHED & FLOODS
USC,16-1005	SEC AGRICULTURE MAY PROVIDE ENGINEERING & OTHER SERVICES FOR LOCAL FLOOD PREVENTION PROJECTS
USC,16-1005	SEC AGRICULTURE MUST REPORT TO CONGRESS IF PLANS FOR CONSTRUCTION EXCESSIVE RE FLOOD PREVENTION
USC,16-1006A	CONDITIONS FOR REPAYMENT & INTEREST ETC IN CONTRACTS FOR LOANS FOR FLOOD PREVENTION
USC,16-1006A	SEC AGRICULTURE MAY MAKE LOANS TO LOCAL ORGANIZATION FOR FLOOD PREVENTION
USC,16-1007	FISCAL LAW RE FLOOD PREVENTION
USC,16-1008	PROJECT ON WILDLIFE RESOURCES
USC,16-1024	CONFLICT OF INTEREST STATUTES INAPPLICABLE TO NORTHWEST ATLANTIC FISHERIES COMMISSION
USC,16-1032	FISCAL LAW RE INTERNATIONAL NORTH PACIFIC FISHERIES COMMISSION
USC,16-1051	ADMINISTRATOR GENERAL SERVICES MAY ACQUIRE LANDS & WATERS FOR NATIONAL FISHERIES & AQUARIUM
USC,16-1051	ADMINISTRATOR GENERAL SERVICES MAY CONSTRUCT & MAINTAIN NATIONAL FISHERIES CENTER & AQUARIUM
USC,16-1051	SEC INTERIOR MAY CONSTRUCT OR PURCHASE & MAINTAIN VESSELS FOR SPECIMEN COLLECTING RE FISHERIES
USC,16-1052	EXPERTS SEE ALSO CONSULTANTS
USC,16-1052	SEC INTERIOR MAY HIRE CONSULTANTS
USC,16-1052	SEC INTERIOR MAY PURCHASE SPECIMENS & EXHIBIT MATERIALS RE FISHERIES CENTER & AQUARIUM
USC,16-1056	FISCAL LAW RE LIMITATIONS ON EXPENDITURES FOR BUILDINGS FOR FISHERIES CENTER
USC,16-105	SEC INTERIOR MAY CONTRACT FOR COLLECTION OF SPECIMENS WITHOUT ADVERTISING RE FISHERIES CENTER
USC,16-1103	AUTHORITY ROOSEVELT-CAMPOBELLO-INTERNATIONAL PARK COMMISSION TO ENTER INTO CONTRACTS
USC,16-1113	FISCAL LAW RE INTERNATIONAL PARKS
USC,16-1133	PRESIDENT MAY ESTABLISH & MAINTAIN RESERVOIRS & FACILITIES WITHIN NAT FOREST WILDERNESS AREA
USC,16-1152	SEC INTERIOR MAY ENTER INTO AGREEMENTS TO PROTECT & MAINTAIN CERTAIN FUR SEALS
USC,16-1154	SEC INTERIOR MAY PROVIDE FOR TAKING & PROCESSING OF CERTAIN FUR SEAL SKINS RE PROTECTION
USC,16-1162	SEC INTERIOR MAY CONTRACT FOR OPERATIONAL & MAINTENANCE NEEDS FOR GOVT PROPERTY ON ISLANDS
USC,16-1163	SEC INTERIOR MAY PROVIDE FACILITIES & SERVICES TO TOURISTS & FEDERAL EMPLOYEES ON CERTAIN ISLAND
USC,16-1164	SEC INTERIOR MAY AGREE WITH ALASKA TO PROVIDE SERVICES FOR PRIBILOF ISLANDS NATIVES
USC,16-1165	SEC HEW MAY CONTRACT FOR ALL NECESSARY MEDICAL & DENTAL SERVICES FOR NATIVES OF CERTAIN ISLANDS
USC,16-1165	SEC HEW MAY CONTRACT FOR MEDICAL & DENTAL SERVICES FOR FEDERAL EMPLOYEES ON CERTAIN ISLANDS
USC,16-1165	SEC INTERIOR MAY CONTRACT FOR RESEARCH RE CONSERVATION & PROTECTION OF FUR SEALS
USC,16-1167	FISCAL LAW RE ESTABLISHMENT OF FUND FOR CERTAIN ISLANDS
USC,16-118	FISCAL LAW RE AHLEEN RUSHAUM HOSPITAL
USC,16-11	SEC INTERIOR MAY CONTRACT FOR MEDICAL SERVICE FOR EMPLOYEES RE NATIONAL PARK SERVICE
USC,16-1202	SEC INTERIOR MAY CONDUCT RESEARCH ON CONTROL OF JELLYFISH PESTS, & SEAWEED IN COASTAL AREAS
USC,16-1203	FISCAL LAW RE LIMITATION ON FUNDS RE CONTROL OF JELLYFISH ETC IN COASTAL AREAS
USC,16-1222	FISCAL LAW RE LIMITATION ON APPROPRIATIONS RE ESTUARINE AREAS
USC,16-1222	SEC INTERIOR MAY CONDUCT A STUDY & INVENTORY OF THE NATION'S ESTUARIES
USC,16-1222	SEC INTERIOR MAY SUBMIT REPORT ON NATIONAL ESTUARINE AREAS TO CONGRESS
USC,16-1223	RESTRICTIONS ON AUTHORITY SEC INTERIOR TO ENTER INTO AGREEMENT WITH STATES RE ESTUARINE AREAS
USC,16-1223	SEC INTERIOR MAY ENTER INTO AGREEMENTS WITH STATES FOR MANAGEMENT OF LANDS WITHIN ESTUARY
USC,16-1277	AUTHORITY SEC AGRICULTURE TO ACQUIRE LANDS RE NATIONAL AND SCENIC RIVERS SYSTEM
USC,16-1277	AUTHORITY SEC INTERIOR TO ACQUIRE LAND RE NATIONAL WILD AND SCENIC RIVERS SYSTEM
USC,16-1278	FPC SHALL NOT LICENSE CONSTRUCTION OF DAM ETC ON RIVERS IN NAT & SCENIC RIVERS SYSTEM
USC,16-1278	INAPPLICABILITY OF WILD & SCENIC RIVERS PROVISIONS TO GRANTS UNDER WATER CONSERVATION FUND ACT
USC,16-1278	RESTRICTION ON FPC TO LICENSE CONSTRUCTION OF WATER RESOURSE ON POTENTIAL WILD OR SCENIC RIVER
USC,16-1278	RESTRICTION ON FPC TO LICENSE CONTRUCTION OF ANY WATER RESOURCE RE WILD & SCENIC RIVERS
USC,16-1283	CERTAIN SECS MAY REVIEW ADMINISTRATION & MGT RE PROTECTION OF WILD OR SCENIC RIVERS
USC,16-12	SEC INTERIOR MAY SELL FOOD & SUPPLIES TO NATIONAL PARK VISITORS UNDER CERTAIN CONDITIONS
USC,16-13	SEC INTERIOR MAY PROVIDE MEDICAL ATTENTION FOR CERTAIN EMPLOYEES RE NATIONAL PARK SERVICE
USC,16-14A	FISCAL LAW RE AVAILABILITY OF FUNDS FOR INFORMATION & SIGNS RE NATIONAL PARK SERVICE
USC,16-14C	FISCAL LAW RE AVAILABILITY OF FUNDS FOR EXPENSE OF RECORDING DONATIONS RE NATIONAL PARKS

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USC,16-15	FISCAL LAW RE PURCHASE OF WATERPROOF FOOTWEAR RE NATIONAL PARK SERVICE
USC,16-160L-18	SEC INTERIOR MAY PROVIDE FOR PUBLIC RECREATION & WILDLIFE FACILITIES WITH CERTAIN RESERVOIRS
USC,16-1600-7	FISCAL LAW RE LIMITATION ON FUNDS FOR RECREATIONAL FACILITIES FOR DELEWARE WATER GAP RECREAT
USC,16-16	FISCAL LAW RE CENTRAL WAREHOUSES RE NATIONAL PARKS SERVICE
USC,16-17B1	SEC INTERIOR MUST REPORT TO CONGRESS RE CERTAIN PROPOSED LEASE & CONTRACT AWARDS
USC,16-17B	SEC INTERIOR MAY CONTRACT FOR SERVICES IN NATIONAL PARKS WITHOUT ADVERTISING
USC,16-17C	SEC INTERIOR TO PROVIDE SPECIAL SERVICES TO NATIONAL PARK LICENSEES IN EMERGENCIES
USC,16-17E	SEC INTERIOR MAY PROVIDE FOR CARE & REMOVAL OF INDIGENTS FROM NATIONAL PARKS
USC,16-17F	SEC INTERIOR MAY REIMBURSE PARK EMPLOYEE FOR PROPERTY DAMAGED DURING OFFICIAL USE
USC,16-17G	SEC INTERIOR MAY MAINTAIN EQPT FURNISHED BY PARK SERVICE EMPLOYEES
USC,16-17G	SEC INTERIOR MAY REQUIRE PARK SERVICE EMPLOYEES TO FURNISH NECESSARY EQPT
USC,16-17H	SEC INTERIOR MAY AUTHORIZE PURCHASE OF PROPERTY OF NATIONAL PARK SERVICE EMPLOYEES
USC,16-17H	SEC INTERIOR MAY PRESCRIBE REGULATIONS RE PURCHASE ETC OF PROPERTY OF PARK SERVICE EMPLOYEES
USC,16-17I	NATIONAL PARK SERVICE MAY HIRE WORK ANIMALS VEHICLES & EQPT AT RATES APPROVED BY SEC INTERIOR
USC,16-17I	NATIONAL PARK SERVICE MAY HIRE WORK ANIMALS, VEHICLES, ETC WITHOUT ADVERTISING
USC,16-17J-2	APPROPRIATIONS FOR NATIONAL PARK SERVICE AUTHORIZED FOR REPAIR & MAINTENANCE OF CERTAIN PARKS
USC,16-17J-2	NATIONAL PARK SERVICE APPROPRIATIONS USED FOR ACQUIRING RIGHTS OF WAY & WATER
USC,16-17J-2	NATIONAL PARK SERVICE APPROPRIATIONS USED FOR ADMINISTRATION & MAINTENANCE OF CERTAIN CANAL
USC,16-17J-2	NATIONAL PARK SERVICE APPROPRIATIONS USED FOR EDUCATIONAL LECTURES RE PARKS, MONUMENTS.
USC,16-17J-2	NATIONAL PARK SERVICE APPROPRIATIONS USED FOR MAINTENANCE OF RECREATIONAL RE GOVT AGENCIES
USC,16-17J	APPROPRIATIONS FOR NATIONAL PARK SERVICE MAY BE USED FOR PAYMENT OF TRAVELING EXPENSES
USC,16 17K	SEC INTERIOR MAY CAUSE NATIONAL PARK SERVICE TO MAKE COMPREHENSIVE STUDY OF PARKS, RECREATIONAL
USC,16-17M	CONSENT OF CONGRESS NECESSARY RE COMPACTS, & AGREEMENTS BETWEEN STATES RE RECREATIONAL PARKS
USC,16-17	SEC INTERIOR MAY PURCHASE EQPT, & SUPPLIES FOR NATIONAL PARK SERVICE EMPLOYEES
USC,16-18A	SEC INTERIOR MAY CONTRACT FOR PRINTING & BINDING RE PROMOTION OF TOURIST TRAVEL
USC,16-18A	SEC INTERIOR TO MAKE CHARGES FOR PUBLICATIONS RE PROMOTION OF TOURIST TRAVEL
USC,16-18D	FISCAL LAW RE PROMOTION OF TOURIST TRAVEL BY SEC INTERIOR
USC,16-18F	SEC INTERIOR MAY MAKE EXCHANGES OF OBJECTS FROM MUSEUMS ESTABLISHED BY NATIONAL PARK SERVICE
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USC,16-18H	AUTHORITY SEC INTERIOR TO PROVIDE FOR INCIDENTAL EXPENSES RE VOLUNTEERS IN THE PARKS PROGRAM
USC,16-18J	FISCAL LAW RE VOLUNTEERS IN THE PARK PROGRAM
USC,16-18	SEC INTERIOR MAY AUTHORIZE & DIRECT THROUGH NATIONAL PARK SERVICE TO ENCOURAGE & DEVELOP TRAVEL
USC,16-19H	NATIONAL PARK FOUNDATION MAY ACCEPT, SOLICIT, GIFTS & BEQUESTS OF REAL & PERSONAL PROPERTY
USC,16-19J	NATIONAL PARK FOUNDATION MAY EXECUTE CONTRACTS, INSTRUMENTS & NECESSARY OR APPROPRIATE ACTS
USC,16 19K	NATIONAL PARK FOUNDATION BOARD MAY CONTRACT FOR ANY NECESSARY SERVICES
USC,16-19K	NATIONAL PARK FOUNDATION BOARD MAY MAKE ADMINISTRATIVE RULES & REGULATIONS
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USC,16-244	SEC INTERIOR MAY PURCHASE OR CONDEMN LAND FOR BUILDING LOG BUILDINGS IN ROOSEVELT PARK
USC,16-271C	SEC INTERIOR MAY CONSTRUCT ENTRANCE & CONNECTION ROADS IN CANYON LANDS NATIONAL PARK
USC,16-271	SEC AGRICULTURE MUST APPROVE ROADS THAT CROSS NATIONAL FOREST LANDS IN CANYONLANDS PARK
USC,16 281C	AUTHORITY SEC INTERIOR TO CONTRACT FOR PRESERVATION & MAINTENANCE NEZ PERCE HISTORICAL PARK
USC,16-281E,F	LIMITATION ON AUTHORITY SEC INTERIOR TO CONTRACT & FISCAL LAW RE NEZ PERCE HISTORICAL PARK
USC,16-282B	SEC INTERIOR MAY CONTRACT FOR PRESERVATION OF NATIONALLY SIGNIFICANT HISTORICAL PARKS
USC,16-282E	FISCAL LAW RE SAN JUAN NATIONAL HISTORIC PARK
USC,16-283E	FISCAL LAW RE GUADALUPE MOUNTAINS NATIONAL PARK
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USC,16-291B	AUTHORITY SEC INTERIOR TO MAINTAIN GEORGE ROGERS CLARK NATIONAL HISTORICAL PARK
USC,16-30	SEC INTERIOR SHALL CAUSE TO BE ERECTED A JAIL & OFFICE FOR COMMISSIONER IN YELLOWSTONE PARK
USC,16-34	ROAD EXTENSIONS & IMPROVEMENTS MADE IN YELLOWSTONE PARK SHALL BE APPROVED BY SEC INTERIOR
USC,16-353A	PRESIDENT INFO INTERIOR DEPT TO CONSTRUCT LODGES, BUY VEHICLES FOR MT MCKINLEY NAT PARK
USC,16-353A	SEC INTERIOR MAY PROVIDE HOUSING, FEEDING, TRANSPORTATION OF VISITORS TO MT MCKINLEY NAT PARK
USC,16-353	SEC INTERIOR MAY ERECT FACILITIES TO ACCOMMODATE VISITORS TO MT MCKINLEY NATIONAL PARK
USC,16-361	SEC INTERIOR MAY PROVIDE BATH HOUSES FOR HOT SPRINGS NATIONAL PARK
USC,16-361	SUPERINTENDENT CERTAIN NATIONAL PARKS TO MAINTAIN PUBLIC BATH HOUSES FOR INDIGENT
USC,16-394	AUTHORITY SEC INTERIOR TO PERMIT ERECTION OF SCIENTIFIC FACILITIES RE NATIONAL PARKS
USC,16-394	SEC INTERIOR MAY MAINTAIN VISITORS FACILITIES AT CERTAIN NATIONAL PARKS
USC,16-3	APPROVAL OF SEC INTERIOR REQUIRED FOR ASSIGNMENT OF CONTRACT FOR NATIONAL PARK SERVICE LAND
USC,16-3	SEC INTERIOR MAY CONTRACT, LEASE ETC RE LAND RE NATIONAL FOR NATIONAL PARK SERVICE
USC,16-3	SEC INTERIOR MAY ISSUE RULES & REGULATIONS RE NATIONAL PARK SERVICE
USC,16-3	SEC INTERIOR MAY PERMIT LICENSEES TO ISSUE BONDS ETC RE NATIONAL PARK SERVICE
USC,16-3	SEC INTERIOR MAY SELL OR DISPOSE OF TIMBER UNDER CERTAIN CONDITIONS
USC,16-40C	SEC INTERIOR MAY CREATE SPECIAL FUND RE EDUCATION OR YELLOWSTONE EMPLOYEES DEPENDENTS
USC,16-403H	FISCAL LAW & AUTHORITY SEC INTERIOR TO CONSTRUCT ENTRANCES TO CERTAIN NATIONAL PARKS
USC,16-406	SEC INTERIOR MAY MAKE AGREEMENTS WITH PUBLIC AGENCIES RE EDUCATION OF PARK DEPENDENTS
USC,16-407M	SEC INTERIOR MAY CONSTRUCT REPLICAS OF HISTORICAL SITES IN CERTAIN NATIONAL PARKS
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USC,16-407R	FISCAL LAW RE ACQUIRING PROPERTY FOR CERTAIN NATIONAL PARKS
USC,16-407S/422B	AUTHORITY SEC INTERIOR TO ENTER INTO AGREEMENTS TO ADMINISTER CERTAIN NATIONAL PARKS
USC,16-410U	AUTHORITY SEC INTERIOR FOR AGREEMENT WITH STATES FOR NATIONAL PARK MAINTENANCE
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USC,16-425O	AUTHORITY SEC INTERIOR TO ADMINISTER & MAINTAIN NATIONAL PARKS SEE 16-425J 2 427 428D 429
USC,16-425O	AUTHORITY SEC INTERIOR TO ADMINISTER & MAINTAIN NATIONAL PARK SEE 16-11 LL(B) MM

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USC.16-425D	AUTHORITY SEC INTERIOR TO ADMINISTER & MAINTAIN NATIONAL PARK SEE 16-429A 430D H-3(C) H-5
USC.16-425D	AUTHORITY SEC INTERIOR TO ADMINISTER & MAINTAIN NATIONAL PARK SEE 16-430CC(B) EE HH(B)
USC.16-425D	AUTHORITY SEC INTERIOR TO ADMINISTER & MAINTAIN NATIONAL PARK SEE 16-430R V(C) X Z Z-3
USC.16-430NN	AUTHORITY SEC INTERIOR TO ACQUIRE & PRESERVE CERTAIN HISTORICAL BATTLEFIELDS
USC.16-437	AUTHORITY SEC INTERIOR TO RESERVE LAND, DEVELOPE & MAINTAIN MONUMENTS & MEMORIALS
USC.16-437	SEC INTERIOR MAY RESERVE LAND FOR NATIONAL MONUMENTS & MEMORIALS SEE 16-450DD-GG-2-II-1
USC.16-437	SEC INTERIOR MAY RESERVE LAND FOR NATIONAL MONUMENTS & MEMORIALS SEE 16-450II-2 450GG-1
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USC.16-437	SEE 445(B)-450(A) RE
USC.16-437	16-450AA-2 BB-2 441(N)(A) (D)
USC.16-439	SEC TREASURY MAY CONTRACT FOR & CONSTRUCT RAILROAD FACILITIES ACROSS CERTAIN MONUMENT GROUNDS
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USC.16-450X	FISCAL LAW RE MONUMENTS & MEMORIALS
USC.16-450-00-4	SEC INTERIOR MAY GIVE PREFERENCE TO EMPLOY CERTAIN INDIAN TRIBES RE MONUMENTS ON THEIR LAND
USC.16-450	SEC INTERIOR MAY GIVE FUNDS FOR CONSTUCTION OF DOCKING FACILITIES FOR MONUMENT & CERTAIN INDIAN
USC.16-451	FISCAL LAW RE LIMITATION UPON COST OF CONSTRUCTION OF BUILDINGS IN NATIONAL PARKS
USC.16-452A	FISCAL LAW RE MATCHING FUNDS DONATED FOR ACQUIRING NON-FEDERAL LAND WITHIN NATIONAL PARKS
USC.16-455B	SEC ARMY SHALL INCLUDE ANNUALLY IN DEPT APPROPRIATION LIST OF BATTLEFIELDS FOR SURVEYS & COSTS
USC.16-455C	SEC ARMY SHALL REPORT THROUGH PRESIDENT TO CONGRESS RE PURCHASE OF REAL ESTATE RE MILITARY PARK
USC.16-456	EXPENSES FOR DEPOSITING PUBLIC MONEY SHALL BE MADE AVAILABLE FROM APPROPRIATIONS
USC.16-458A	SEC INTERIOR MAY HAVE PREPARED MATS FOR REPRODUCTION IN MAGAZINES & NEWSPAPERS OF SCENERY PHOTO
USC.16-459B-6	SEC INTERIOR MAY PRESERVE & DEVELOPE SEASHORES SEE 16-459D-5-F-6 F-7 F-8 F-9 G-1E G-6
USC.16-459C-2	SEC INTERIOR MAY ENTER INTO CONTRACTS TO ACQUIRE PROPERTY RE POINT REYES NATIONAL SEASHORE
USC.16-459C-7	U.S. LIABILITY UNDER CONTRACTS TO ACQUIRE PROPERTY RE POINT REYES SEASHORE APPROPRIATIONS
USC.16-459C-7	FISCAL LAW RE POINT REYES NATIONAL SEASHORE
USC.16-459D-1	SEC INTERIOR MAY ACQUIRE PROPERTY RE PADRE ISLAND NATIONAL SEASHORE
USC.16-459D-7	FISCAL LAW RE LIMITATION ON APPROPRIATIONS RE SEASHORE DEVELOPMENT & PRESERVATION
USC.16-459F-10	FISCAL LAW LIMITATION ON APPROPRIATION RE SEASHORE DEVELOPMENT & PRESERVATION
USC.16-459G-6	FISCAL LAW RE SEASHORE DEVELOPMENT & PRESERVATION
USC.16-459R	SEC INTERIOR MAY CONVEY OR LEASE TO STATES RECREATIONAL DEMONSTRATION PROJECTS
USC.16-459T	SEC INTERIOR MAY EXECUTE DEEDS & LEASES FOR RECREATIONAL [illegible]ATION PROJECTS
USC.16-459U	SEC INTERIOR MAY EXCHANGE LANDS TO ACQUIRE OTHER LANDS RE [illegible]TIONAL DEMONSTRATION
USC.16-460A-11	FISCAL LAW RE BLUE RIDGE PARKWAY EXTENSION
USC.16-460A-7	SEC INTERIOR & AGRICULTURE MAY COORDINATE RECREATIONAL DEVELOPMENTS OF PKWY & FOREST LANDS
USC.16-460A-	SEC INTERIOR MAY ACCEPT DONATIONS & INTERESTS IN LAND TO CONSTRUCT EXTENSION OF BLUE RIDGE PKWY
USC.16-460D-1	CHIEF OF ENGINEERS OF DEPT ARMY MAY AMEND ANY LEASE ON LANDS RE WATER RESOURCE PROJECTS
USC.16-460D-2	SEC AGRICULTURE MAY AMEND LEASE OF LAND UNDER FOREST SERVICE JURISDICTION RE WATER RESOURCES
USC.16-460D	CHIEF OF ENGINEERS OF DEPT ARMY MAY CONSTRUCT PUBLIC PARK FACILITIES AT WATER RESOURCE PROJECTS
USC.16-460D	CHIEF OF ENGINEERS OF DEPT ARMY MAY MAKE AGREEMENTS FOR PUBLIC FACILITIES AT WATER RESOURCE
USC.16-460E	SEC ARMY MAY SELL PUBLIC LANDS UNDER HIS CONTROL NOT NECESSARY FOR COTTAGE SITE & RESERVOIRS
USC.16-460F	REGULATIONS RE NOTICE & METHOD OF SALE OF LANDS FOR COTTAGE SITE DEVELOPMENT BY SEC ARMY
USC.16-460F	SEC INTERIOR MAY ACQUIRE FACILITIES, EMPLOY PERSONNEL & COOPERATE WITH AGENCIES OF FISH
USC.16-460G	SEC ARMY MAY TRANSFER TO STATES WITHOUT CONSIDERATION LANDS FOR ROADS TO SERVE COTTAGE SITES
USC.16-460K-1	SEC INTERIOR MAY ACQUIRE LANDS FOR RECREATIONAL DEVELOPMENT ADJACENT TO CONSERVATION AREAS
USC.16-460K-4	FISCAL LAW RE NATIONAL CONSERVATION RECREATIONAL AREAS
USC.16-460L-10A	LIMITATIONS ON CONTRACTS FOR ACQUISITION OF LANDS & WATERS BY SEC INTERIOR
USC.16-460L-10B	SEC INTERIOR MAY ENTER INTO CONTRACTS FOR OPTIONS TO ACQUIRE LANDS ETC FOR PARK SYSTEM
USC.16-460L-10	LAND & WATER CONSERVATION FUND MONEYS SHALL NOT BE AVAILABLE FOR PUBLICITY PURPOSES
USC.16-460L-12	FEDERAL NAVIGATION, FLOOD CONTROL, RECLAMATION OR HYDROELECTRIC PROJECTS SEE WATER RESOURCE
USC.16-460L-13	ALLOCATION OF COSTS FOR RECREATION & WILDLIFE ENHANCEMENT OF NON-FEDERAL ADMINISTERED WATER
USC.16-460L-13	AUTHORIZATION TO PROVIDE FOR MULTIPLE PURPOSE WATER RESOURCE PROJECT AREA BY OTHER THAN GOVT
USC.16-460L-14	JUSTIFICATION FOR DEVELOPMENT OF RECREATION OR WILDLIFE FACILITIES RE WATER RESOURCE
USC.16-460L-15	CONDITIONS REGULATING LEASE OF WATER RESOURCE PROJECT LANDS TO NON-FEDERAL PUBLIC BODIES
USC.16-460L-16	SEC INTERIOR MAY ENTER INTO AGREEMENTS FOR ADMINISTRATION OF WATER RESOURCE PROJECTS
USC.16-460L-17	BEACH EROSION, HURRICANES, OTHER PROJECTS SEE
USC.16-460L-17	BENEFITS OF FEDERAL WATER RESOURCE PROJECTS ARE NOT APPLICABLE TO SMALL RECLAMATION PROJECTS
USC.16-460L-17	BENEFITS OF FEDERAL WATER RESOURCE PROJECTS ARE NOT APPLICABLE TO TENNESSEE VALLEY AUTHORITY
USC.16-460L-17	BENEFITS OF FEDERAL WATER RESOURCE PROJECTS NOT APPLICABLE TO WATERSHED PREVENTION & FLOOD
USC.16-460L-17	FISCAL LAW RE PROVISION FOR PAYMENTS RECEIVED FROM NON-FEDERALLY ADMINISTERED WATER RESOURCE
USC.16-460L-17	INAPPLICABILITY OF COST ALLOCATION FOR WATER RESOURCE WHERE COSTS BORNE BY U.S.
USC.16-460L-17	INAPPLICABILITY OF FEDERAL WATER RESOURCE PROJECT BENEFITS TO LOCAL FLOOD CONTROL PROJECTS
USC.16-460L-17	NONREIMBURSABLE COSTS RE WATER RESOURCE PROJECTS SEE
USC.16-460L-18	LIMITATION ON FUNDS AVAILABLE FOR RECREATION & WILDLIFE FACILITIES RE CERTAIN RESERVOIRS
USC.16-460L-18	SEC INTERIOR MAY LEASE TO TRANSFER PROJECT LAND FOR CERTAIN PURPOSES RE WATER RESOURCE
USC.16-460L-19	LIMITATION SEC INTERIOR & CERTAIN OTHERS TO PREPARE FEASIBILITY REPORT ON WATER RESOURCE
USC.16-460L-1	AUTHORITY SEC INTERIOR TO ENTER INTO AGREEMENTS TO STUDY OUTDOOR RECREATIONAL PROJECTS
USC.16-460L-20	FISCAL LAW RE LIMITATION ON SUM EXPENDED FOR RECREATION & WILDLIFE PURPOSES - WATER RESOURCE
USC.16-460L-22	SEC INTERIOR MAY CONVEY PROPERTY RE NATIONAL PARK SYSTEM
USC.16-460L-5	REVENUES & COLLECTIONS MAKING UP LAND & WATER CONSERVATION FUND IN THE TREASURY OF U.S.
USC.16-460L-6	FISCAL LAW RE EXPENDITURE OF LAND & WATER CONSERVATION FUND MONEYS
USC.16-460L-7	RESTRICTIONS ON ADVANCED APPROPRIATIONS FROM LAND & WATER CONSERVATION FUND OF US TREASURY
USC.16-460L-8	AUTHORITY SEC INTERIOR TO MAKE PAYMENTS TO STATES RE LAND & WATER CONSERVATION
USC.16-460L-9	CONSERVATION SEE FISCAL LAW IN
USC.16-460L-9	FISCAL LAW RE ALLOCATION OF COSTS OF CERTAIN FEDERAL WATER RESOURCES PROJECTS
USC.16-460M	CONDITIONS FOR PROVIDING LANDS FOR WILDLIFE OR RECREATION PURPOSES RE NON-FEDERAL WATER RESOURC
USC.16-460P-3	PROVISION RELATING TO RECREATION FACILITIES AT SPRUCE KNOB SENECA ROCKS RECREATION AREA
USC.16-460Q-9	FISCAL LAW RE LIMITATION ON FUNDS FOR WHISKEY TOWN SHASTA TRINITY RECREATIONAL AREA
USC.16-460S-11	PROVISION RELATING TO TECHNICAL AID PAYMENTS TO TOWNSHIPS AT PICTURED ROCKS LAKESHORE
USC.16-460S-13	FISCAL LAW RE LIMITATION ON FUNDS FOR ACQUISITION OF LANDS RE NATIONAL LAKESHORES

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USC,16-460U-6	SEC INTERIOR MAY PROVIDE FOR PRESERVATION OF INDIAN DUNES NATIONAL PARK
USC,16-460V-3	PROVISION RELATING TO RECREATION FACILITIES AT MOUNT ROGERS NATIONAL RECREATIONAL AREA
USC,16-460W-1	PROHIBITION AGAINST ACQUIRING CERTAIN INDIAN LANDS RE APOSTLE ISLANDS NATIONAL LAKESHORE
USC,16-460W-2	AUTHORITY SEC INTERIOR TO ACQUIRE LAND RE APOSTLE ISLANDS NATIONAL LAKESHORE
USC,16-460	FISCAL LAW - RESTRICTION ON APPROPRIATION FROM THE LAND & WATER CONSERVATION FUND FOR ACQUISITION
USC,16-460	SEC INTERIOR MAY MAINTAIN EASEMENTS & RECREATIONAL AREAS ALONG CERTAIN NAT. PKWYS SEE 16-460A-2
USC,16-462	LIMITATIONS ON ACQUISITION OF REAL & PERSONAL PROPERTY BY SEC INTERIOR RE HISTORIC SITES
USC,16-462	PROHIBITION AGAINST USING GENERAL FUNDS OF TREASURY UNLESS CONGRESS APPROPRIATES - HISTORIC SITE
USC,16-462	SEC INTERIOR MAY ACQUIRE REAL OR PERSONAL PROPERTY RE HISTORIC SITES ETC
USC,16-462	SEC INTERIOR MAY CONDUCT RESEARCH TO OBTAIN HISTORIC FACTS ABOUT SITES ETC
USC,16-462	SEC INTERIOR MAY CONTRACT WITH BONDS TO PROTECT, MAINTAIN, & OPERATE HISTORIC BUILDINGS
USC,16-462	SEC INTERIOR MAY ERECT & MAINTAIN TABLETS TO MARK HISTORIC PLACES & EVENTS
USC,16-462	SEC INTERIOR MAY GRANT LEASES OR PERMITS BY COMPETITIVE BID RE HISTORIC SITES ETC
USC,16-462	SEC INTERIOR MAY OPERATE HISTORIC SITES, BUILDINGS, ETC
USC,16-462	SEC INTERIOR MAY RESTORE & PRESERVE HISTORIC BUILDINGS ETC & MAINTAIN MUSEUMS
USC,16-464	AUTHORITY TO HIRE CONSULTANTS & EXPERTS FOR HISTORIC SITES & BUILDINGS
USC,16-466	FISCAL LAW RE APPROPRIATIONS FOR HISTORIC SITES, BUILDINGS, OBJECTS & ANTIQUES
USC,16-468C	NATIONAL TRUST MAY AGREE FOR USE OF LANDS OR BUILDINGS
USC,16-468	NATIONAL TRUST MAY PRESERVE ANY HISTORIC SITE
USC,16-469A	SEC INTERIOR MAY PERFORM HISTORICAL & ARCHEOLOGICAL SURVEY OF AREA TO BE FLOODED RE DAMS
USC,16-469A	SEC INTERIOR MAY RECEIVE CERTAIN INFORMATION PRIOR TO CONSTRUCTION OF A DAM BY ANY AGENCY
USC,16-469B	SEC INTERIOR MAY ENTER INTO AGREEMENTS TO PERFORM ARCHEOLOGICAL SURVEY IN LIEU OF DAM CON.
USC,16-470A	SEC INTERIOR MAY ESTABLISH MATCHING GRANT IN AID WITH STATES FOR HISTORIC SITE PRESERVATION
USC,16-470A	SEC INTERIOR MAY GRANT FUNDS TO STATES FOR PREPARATION OF HISTORICAL SURVEYS
USC,16-470B-1	LIMITATION ON AMOUNT OF GRANTS SEC HEW AUTHORIZED FOR HISTORIC PRESERVATION
USC,16-470B-1	SEC HEW MAY MAKE GRANTS TO NATIONAL TRUST FOR HISTORIC PRESERVATION TO RESTORE RE HISTORIC
USC,16-470B	REQUIREMENTS FOR AWARDING OF GRANTS TO STATES FOR HISTORIC PRESERVATION PURPOSES
USC,16-470C	APPORTIONMENT REQUIREMENTS FOR GRANT FUNDS TO STATES FOR HISTORIC SURVEYS
USC,16-470C	LIMITATION ON AMOUNTS OF GRANT FUNDS TO STATES FOR HISTORIC SURVEYS
USC,16-470D	PROHIBITION AGAINST MAKING GRANTS TO HISTORIC SURVEYS OR PROJECTS ALREADY FEDERALLY FUNDED
USC,16-470E	SEC INTERIOR MAY PRESCRIBE CERTAIN RECORD KEEPING STANDARDS FOR HISTORIC SURVEY GRANTS
USC,16-470H	FISCAL LAW - LIMITATION ON FUNDS FOR GRANTS FOR HISTORIC PRESERVATION PURPOSES
USC,16-470M	COUNCIL ON HISTORIC PRESERVATION MAY OBTAIN ADDITIONAL SERVICES & FACILITIES IF FUNDS AVAILABLE
USC,16-470M	SEC INTERIOR MAY PROVIDE FUNDS TO ADVISORY COUNCIL ON HISTORIC PRESERVATION FOR SERVICES
USC,16-471	PRESIDENT MAY ESTABLISH NATIONAL FORESTS
USC,16-476	RESTRICTIONS ON SALE OF TIMBER FROM NATIONAL FORESTS BY SEC AGRICULTURE
USC,16-478A	SEC AGRICULTURE MAY OFFER FOR PUBLIC SALE TOWNSITES FROM NATIONAL FOREST OR LAND ADMINISTERED
USC,16-484A	SEC AGRICULTURE MAY EXCHANGE LANDS IN NATIONAL FORESTS WITH LANDS OF PUBLIC SCHOOL AUTHORITIES
USC,16-485	SEC AGRICULTURE MAY ALLOW TIMBER CUTTING IN NATIONAL FORESTS IN EXCHANGE FOR LANDS RE FORESTS
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USC,22-2383	RESPONSIBILTTY IN DETERMINING MILITARY END-ITEM REQUIREMENTS FOR INTERNATIONAL ASSISTANCE
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USC,22-2393	FISCAL LAW RE FUNDS FOR INT. DEV. MAY BE EXPENDED WITHOUT REGARD TO LAWS REGULATING EXPENDITURES
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USC,22-2508	PEACE CORP FUNCTIONS MAY BE PERFORMED WITHOUT REGARD TO LAWS OF CONTRACTS OR EXPENDING FUNDS
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USC,31-689 APPROPRIATIONS UNDER CONTROL OF ARCHITECT OF CAPITOL ARE AVAILABLE FOR ADVERTISING
USC,31-692 AVAILABILITY OF DEPT INTERIOR APPROPRIATIONS FOR HIRE OF BOATS, WORK ANIMALS & VEHICLES RE FIELD
USC,31-699 AVAILABILITY OF CERTAIN APPROPRIATIONS FOR NASA WITHOUT FISCAL YEAR LIMITATION

KEYWORD	
USC,31-699	SUPPORT SERVICES CONTRACTS MADE WITH NASA APPROPRIATIONS FOR NO MORE THAN 1 YEAR
USC,31-701-708	*USC,31-708* EXCEPTIONS TO APPROPRIATION ACCOUNTS AUTHORIZED BY
USC,31-701	ACCOUNTING PROCEDURES FOR TRANSFER, WITHDRAWAL & RESTORATION OF UNOBLIGATED BALANCES
USC,31-701	DEFINITION OF OBLIGATED & UNOBLIGATED BALANCES
USC,31-702	AVAILABILITY OF APPROPRIATION ACCOUNTS FOR PAYMENT OF OBLIGATIONS
USC,31-703	REVIEW OF APPROPRIATION ACCOUNTS BY GAO AND AGENCY
USC,31-704	TRANSFER OF OBLIGATED BALANCES OF APPROPRIATION ACCOUNTS
USC,31-705	MERGER OF OBLIGATED BALANCES FOR DEFINITE PERIODS
USC,31-706	WITHDRAWAL OF UNOBLIGATED BALANCES NOT LIMITED TO DEFINITE PERIOD
USC,31-708	EXCEPTIONS TO APPROPRIATION ACCOUNTS AUTHORIZED BY USC,31-701-708
USC,31-71A	BARRED CLAIMS ACT ALSO SEE USC,31-237
USC,31-712A	ANNUAL APPROPRIATIONS AVAILABLE ONLY FOR FULFILLMENT OF CONTRACTS MADE WITHIN THAT YEAR
USC,31-712	ANNUAL APPROPRIATIONS AVAILABLE ONLY FOR PAYMENT OF EXPENSES INCURRED DURING THAT YEAR
USC,31-712	CERTIFIED CLAIMS ACT OF 1949
USC,31-71	PUBLIC ACCOUNTS ARE TO BE SETTLED BY COMP GEN
USC,31-723A	AUTHORITY SEC DEF TO REPORT TO CONGRESS RE COST OF CERTAIN PUBLIC WORKS PROJECT
USC,31-723	FISCAL LAW RE ADVANCE PLANNING OF PUBLIC WORKS
USC,31-724A	AVAILABILITY OF APPROPRIATIONS FOR PAYMENT OF JUDGEMENT & COMPROMISE SETTLEMENT AGAINST U.S.
USC,31-72	AUTHORITY OF COMP GEN TO SETTLE ACCOUNTS
USC,31-734	AUTHORITY SEC TREASURY TO PURCHASE GOLD
USC,31-74	FINALITY & CONCLUSIVENESS OF BALANCES CERTIFIED BY COMP GEN UPON SETTLEMENT OF PUBLIC ACCOUNTS
USC,31-82A-1	RELIEF OF ACCOUNTABLE OFFICERS ACT
USC,31-82A-2	AUTHORITY OF COMP GEN TO PROVIDE RELIEF OF ACCOUNTABLE OFFICERS LIABILITY RE IMPROPER PAYMENTS
USC,31-82B	AUTHORITY GOVT DISBURSING OFFICERS TO DISBURSE MONEY ONLY UPON VOUCHERS DULY CERTIFIED
USC,31-82B	GOVT DISBURSING OFFICERS MAY EXAMINE VOUCHERS RE DULY CERTIFIED, PROPERLY COMPUTED ETC
USC,31-82C	CERTIFYING OFFICERS OF VOUCHERS HELD RESPONSIBLE FOR EXISTENCE & CORRECTNESS OF FACTS
USC,31-82C	CERTIFYING OFFICERS OF VOUCHERS REQUIRED TO GIVE BOND PER STANDARDS PRESCRIBED BY SEC TREASURY
USC,31-82C	CERTIFYING OFFICERS OF VOUCHERS TO BE ACCOUNTABLE ILLEGAL OR IMPROPER PAYMENTS
USC,31-82C	COMP GEN MAY RELIEVE CERTIFYING OFFICER OF VOUCHERS OF LIABILITY UNDER CERTAIN CONDITIONS
USC,31-82C	RELIEF OF CERTIFYING OFFICERS BY COMP GEN
USC,31-82C	RESPONSIBILITY OF CERTIFYING OFFICERS
USC,31-82D	ENFORCEMENT OF LIABILITY OF CERTIFYING OFFICERS OF VOUCHERS
USC,31-850	AUDIT BY COMP GEN OF WHOLLY OWNED GOVT CORPORATIONS
USC,31-851	COMP GEN REPORT ANNUALLY ON EACH WHOLLY OWNED GOVT CORPORATION AUDIT
USC,31-857	AUDIT BY COMP GEN OF FISCAL TRANSACTIONS OF MIXED OWNERSHIP GOVT CORPORATIONS
USC,31-857	AUTHORITY COMP GEN TO MAKE RULES & REGULATIONS RE AUDIT OF FIXED TRANSACTIONS OF MIXED-OWNERSHIP
USC,31-857	DUTY OF COMP GEN TO REPORT TO CONGRESS ON AUDIT OF MIXED OWNERSHIP GOVT CORPORATIONS
USC,31-857	MIXED OWNERSHIP GOVT CORPORATIONS - AUDIT BY COMP GEN
USC,31-858	REPORT OF EACH AUDIT OF MIXED OWNERSHIP GOVT CORPS. BY GAO MADE BY COMP GEN TO CONGRESS
USC,31-866	NO FUNDS TO BE USED FOR PRIVATE AUDIT OF ANY GOVT CORPORATION
USC,31-866	REIMBURSEMENT OF COMP GEN AUDIT EXPENSES OF WHOLLY OWNED OR MIXED OWNERSHIP GOVT CORP.
USC,31-871	GOVT CORPS FUNDS MAY NOT BE USED FOR CONSTRUCTION OR PURCHASE OF OFFICES IN D.C.
USC,31-93	GAO SHALL SUPERINTEND RECOVERY OF ALL DEBTS FINALLY CERTIFIED BY IT TO BE DUE TO U.S.
USC,31-95A	RELIEF OF DISBURSING OFFICERS OF MILITARY DEPARTMENTS
USC,31-951	DEFINITIONS CONCERNING COMPROMISE AND COLLECTION OF FEDERAL CLAIMS
USC,31-952	AGENCY COLLECTION OF CLAIMS OF US FOR MONEY OR PROPERTY ARISING OUT OF ACTIVITIES OF THAT AGENCY
USC,31-952	AUTHORITY AGENCY TO COMPROMISE CERTAIN CLAIMS OF U.S.
USC.31-952	GUIDELINES FOR COLLECTION AND COMPROMISE OF FEDERAL CLAIMS
USC,32-101	SUPPLIES OF THE NATIONAL GUARD SHALL INCLUDE MATERIAL, EQUIPMENT & STORES OF ALL KINDS
USC,32-106	FISCAL LAW RE ANNUAL APPROPRIATION FOR ARMY AND AIR NATIONAL GUARD
USC,32-702	AUTHORITY SEC ARMY & SEC AIR-FORCE TO BUY OR MANUFACTURE SUPPLIES FOR NATIONAL GUARD
USC,32-702	PURCHASE OR MANUFACTURE OF SUPPLIES FOR NATIONAL GUARD UNDER REGULATIONS PRESCRIBED BY PRESIDENT
USC,32-708	DUTIES & RESPONSIBILITIES OF NATIONAL GUARD PROPERTY & FISCAL OFFICERS
USC,32-708	GOVERNOR OF EACH STATE & TERRITORY SHALL APPOINT A PROPERTY & FISCAL OFFICER FOR NATIONAL GUARD
USC,32-709	AUTHORITY SEC AIR-FORCE TO EMPLOY TECHNICIANS RE MAINTENANCE & REPAIR OF NATIONAL GUARD SUPPLIES
USC,32-709	AUTHORITY SEC AIR FORCE TO EMPLOY TECHNICIANS FOR ADMINISTRATION & TRAINING OF NATIONAL GUARD
USC,32-709	AUTHORITY SEC ARMY TO EMPLOY TECHNICIANS FOR ADMINISTRATION & TRAINING OF NATIONAL GUARD
USC,32-709	AUTHORITY SEC ARMY TO EMPLOY TECHNICIANS FOR MAINTENANCE AND REPAIR OF NATIONAL GUARD SUPPLIES
USC,32-709	AUTHORITY TO EMPLOY TECHNICIANS TO MAINTAIN & REPAIR NATIONAL GUARD & ARMED FORCES SUPPLIES
USC,32-712	PROCEEDS FROM CONDEMNED STORES ISSUED TO NATIONAL GUARD SHALL GO INTO TREASURY
USC,32-712	PROCEEDS TO REIMBURSE US GOVT FOR LOSS DESTRUCTION OF NATIONAL GUARD PROPERTY TO GO TO TREASURY
USC,330546	SEC ARMY MAY INVESTIGATE STREAM FLOWS & WATERSHEDS OF DAMS IN NAVIGABLE WATERS
USC,33-1104	MARINE SCIENCE ENGINEERING & RESOURCES COMMISSION TO HAVE CERTAIN SERVICES PROVIDED BY GSA
USC,33-1122	FISCAL LAW RE SEA GRANT COLLEGES
USC,33-1123	LIMITATION ON FEDERAL CONTRIBUTION TO TOTAL PROGRAM COSTS OF NATIONAL SCIENCE FOUNDATION
USC,33-1123	NATIONAL SCIENCE FOUNDATION MAY DEVELOP PROGRAMS, DO RESEARCH & PUBLISH MARINE INFORMATION
USC,33-1123	NATIONAL SCIENCE FOUNDATION MAY MAKE GRANTS TO PUBLIC & PRIVATE AGENCIES RE MARINE RESOURCES
USC,33-1123	NATIONAL SCIENCE FOUNDATION SHALL ALLOCATE FUNDS FOR MAXIMUM PARTICIPATION OF SEA GRANT COLLEGE
USC,33-1123	NATIONAL SCIENCE FOUNDATION SHALL CONSULT WITH PRIVATE & PUBLIC AGENCIES ON MARINE DEVELOPMENT
USC,33-1123	PROHIBITIONS AGAINST NATIONAL SCIENCE FOUNDATION FUNDS TO OBTAIN LAND, VESSELS, BUILDINGS
USC,33-1124	NATIONAL COUNCIL ON MARINE RESOURCES & ENGINEERING DEVELOPMENTS RE NATIONAL SCIENCE FOUNDATION
USC,33-1	SEC ARMY WILL PRESCRIBE REGULATIONS FOR USC, ADMINISTRATION, NAVIGATION OF U.S. WATERS
USC,33-210-5	ERECTION OF DAMS ON NAVIGABLE WATERS DOES NOT CHANGE NAVIGABILITY UNLESS CONGRESS INTENDED IT
USC,33-210-5	GOVT MAY IMPROVE NAVIGABLE CAPACITY OF STREAMS & DECLARE WATERS TO BE U.S. NAVIGABLE WATERS
USC,33-401	CONGRESS MAY CONSENT TO BUILDING NAVIGATION FACILITIES IF APPROVED BY CHIEF OF ENGINEERS & SEC
USC,33-401	EXCEPTIONS TO AUTHORITY CONGRESS TO CONSENT TO BUILDING NAVIGATION FACILITIES IF APPROVED
USC,33-402	SEC ARMY MAY GRANT USE OF U.S. LAND WHEN APPROVING BRIDGES OVER ILL. & MISS. CANALS
USC,33-403	OBSTRUCTION TO NAVIGABLE CAPACITY OF U.S. WATER PROHIBITED UNLESS AUTHORIZED BY CONGRESS
USC,33-403	UNLAWFUL TO BUILD STRUCTURES ON U.S. WATERS UNLESS IF RECOMMENDED BY CHIEF OF ENGINEERS & SEC

KEYWORD	
USC,33-403	UNLAWFUL TO EXCAVATE OR FILL ANY PORT. CANAL OR CHANNEL OR U.S. WATERS SEE CHIEF OF ENGINEERS
USC,33-404	SEC ARMY MAY ESTABLISH HARBOR LINES FOR PRESERVATION & PROTECTION OF HARBORS
USC,33-405	SEC ARMY MAY ESTABLISH HARBOR LINES ON CERTAIN WATERS
USC,33-405	SEC ARMY MAY REQUIRE COMPENSATION FOR DISPLACED TIDEWATER DUE TO PIER EXTENSIONS
USC,33-406	REMOVAL OF STRUCTURES ERECTED IN VIOLATION OF AUTHORITY OF SEC ARMY ENFORCED BY INJUNCTION
USC,33-406	WRONGFUL CONSTRUCTION OF BRIDGES. PIERS. ETC IS A MISDEMEANOR SUBJECT TO FINE & OR IMPRISONMENT
USC,33-414	BIDDERS FOR REMOVAL OF OBSTRUCTION OF U.S. WATERS SHALL GIVE ADEQUATE SECURITY TO EXECUTE WORK
USC,33-414	SEC ARMY MAY ADVERTISE FOR PROPOSALS RE REMOVAL OF OBSTRUCTION OF U.S. WATERS
USC,33-414	SEC ARMY MAY DISPOSE OF ANY OBSTRUCTION WHENEVER NAVIGABLE WATER OBSTRUCTED
USC,33-414	SEC ARMY MAY PUBLISH NOTICE OF OBSTRUCTION OF U.S. WATER IN NEWSPAPER REQUIRING ITS REMOVAL
USC,33-415	AUTHORITY GOVT AGENT REMOVING OBSTRUCTIONS TO SELL CRAFT OR CARGO OBSTRUCTING U.S. WATERS
USC,33-415	EXPENSES OF REMOVING OBSTRUCTION FROM U.S. WATERS SHALL BE CHARGED TO OWNER OF OBSTRUCTION
USC,33-415	GOVT AGENT MAY REMOVING OBSTRUCTIONS IN U.S. WATERS GIVE NOTICE TO OWNERS OF OBSTRUCTION
USC,33-415	SEC ARMY MAY IN EMERGENCY REMOVE WATER CRAFT OBSTRUCTING NAVIGABLE U.S. WATERS
USC,33-417	TREATMENT OF EXPENSES OF DEPT ARMY WHILE INVESTIGATING OBSTRUCTIONS OF NAVIGABLE WATERS
USC,33-420	PIERS BUILT ON CERTAIN WATERS TO BE REMOVED AT OWNER'S EXPENSE IF OBSTRUCTING NAVIGABLE WATERS
USC,33-420	SAWMILL OWNERS ON CERTAIN WATERS MAY BUILD PIERS FOR PROTECTION AGAINST FLOOD & ICE DAMAGE
USC,33-422	SEC ARMY MAY MODIFY & EXTEND LINES OF HARBOR IN CITY OF CHICAGO
USC,33-426A	BEACH EROSION BOARD MAY DETERMINE METHODS FOR PRESERVATION OF BEACHES
USC,33-426A	BEACH EROSION BOARD MAY MAKE INVESTIGATIONS INTO SHORE EROSION PREVENTION
USC,33-426A	BEACH EROSION BOARD TO PUBLISH DATA RE EROSION & PROTECTION OF BEACHES & SHORE LINES
USC,33-426A	COST OF INVESTIGATIONS BY BEACH EROSION BOARD SHALL BE BORNE WHOLLY BY U.S.
USC,33-426B	ALL PROJECTS RE SHORE PROTECTION SHALL BE REFERRED TO BEACH EROSION BOARD
USC,33-426C	BEACH EROSION BOARD SHALL REPORT ON COOPERATIVE INVESTIGATIONS RE SHORE PROTECTION WORK
USC,33-426D	FISCAL LAW RE INVESTIGATIONS BY BEACH EROSION BOARD
USC,33-426E	BEACH EROSION BOARD WILL STUDY SHORE EROSION PROJECT BEFORE FEDERAL CONTRIBUTION WILL BE MADE
USC,33-426E	LIMITATION ON AMOUNT OF FEDERAL CONTRIBUTION TO PROJECTS FOR PROTECTION AGAINST SHORE EROSION
USC,33-426E	U.S. SHALL ASSIST IN CONSTRUCTION BUT NOT MAINTAINENCE OF WORKS FOR SHORE EROSION PROTECTION
USC,33-426F	SEC ARMY MAY MAKE REIMBURSEMENTS FOR WORK ON SHORE EROSION PROJECTS UP TO 1000000
USC,33-426G	SEC ARMY MAY NOT EXCEED 10.000.000 FOR ANY FISCAL YEAR FOR FEDERAL SHARE ON SHORE PROTECTION
USC,33-426G	SEC ARMY MAY UNDERTAKE CONSTRUCTION OF SHORE PROTECTION PROJECTS RE CONGRESSIONAL AUTH.
USC,33-426I	AUTHORITY OF CONGRESS NEEDED IF FIRST COST ESTIMATE EXCEEDS 1000000 FOR PREVENTING SHORE DAMAGE
USC,33-426I	COST OF PROJECTS FOR PREVENTING SHORE DAMAGE FROM FEDERAL NAVIGATION WORK BORNE FULLY BY U.S.
USC,33-426I	SEC ARMY MAY CONSTRUCT PROJECTS FOR PREVENTION OF SHORE DAMAGE FROM FEDERAL NAVIGATION WORKS
USC,33-426-3	TRANSFER OF FUNCTIONS OF BEACH EROSION BOARD RE SHORE EROSION TO BOARD OF ENGINEERS FOR RIVERS
USC,33-426	CHIEF OF ENGINEERS MAY ESTABLISH BOARD ON COASTAL ENGINEERING RESEARCH
USC,33-426	SEC ARMY MAY DETERMINE CONTRIBUTIONS OF COOPERATING AGENCIES TO SHORE EROSION STUDIES
USC,33-426	SEC ARMY MAY MAKE STUDIES OF MEANS TO PREVENT SHORE EROSION WITH APPROPRIATE AGENCIES
USC,33-433	SEC INTERIOR MAY PRESCRIBE COSTS & EXPENSES FOR REMOVAL OF DISCHARGED OIL IN NAVIGABLE WATERS
USC,33-466A	AUTHORITY SEC HEW TO DEVELOP WATER POLLUTION PROGRAMS WITH OTHER AGENCIES
USC,33-466C1	SEC HEW MAY MAKE GRANTS RE IMPROVEMENT OF SEWAGE DISPOSAL WASTE TREATMENT & WATER PURIFICATION
USC,33-466C-1	APPROPRIATION OF FUNDS RE IMPROVEMENT OF SEWAGE DISPOSAL WASTE TREATMENT & WATER PURIFICATION
USC,33-466C-1	LIMITATIONS ON GRANTS TO IMPROVE SEWAGE DISPOSAL METHODS. WASTE TREATMENT & WATER POLLUTION
USC,33-466C-1	LIMITATION ON GRANTS FOR PROJECTS TO PREVENT INDUSTRIAL WATER POLLUTION
USC,33-466C-1	SEC HEW MAY MAKE RESEARCH GRANTS RE PREVENTION OF INDUSTRIAL WATER POLLUTION
USC,33-466C	AUTHORITY SEC HEW TO MAKE GRANTS TO PUBLIC & PRIVATE AGENCIES RE WATER POLLUTION RESEARCH
USC,33-466C	AUTHORITY SEC HEW TO PROVIDE TRAINING RE WATER POLLUTION TO PUBLIC & PRIVATE AGENCY PERSONNEL
USC,33-466C	SEC HEW MAY COLLECT & MAKE AVAILABLE RESULTS OF WATER POLLUTION STUDIES
USC,33-466C	SEC HEW SHALL COLLECT & DISSEMINATE BASIC DATA ON CHEMICAL, PHYSICAL, BIOLOGICAL WATER QUALITY
USC,33-466C	SEC HEW SHALL CONDUCT RESEARCH & TECHNICAL DEVELOPMENT WORK RE POLLUTION OF GREAT LAKES
USC,33-466C	SEC HEW SHALL CONDUCT STUDIES FOR WATER POLLUTION CONTROL WITH OTHER AGENCIES
USC,33-466C	SEC HEW SHALL DEVELOP MEANS OF TREATING WATERBORNE WASTES
USC,33-466C	SEC HEW SHALL DEVELOP METHODS FOR EVALUATING EFFECTS ON WATER QUALITY OF AUGMENTED STREAMFLOWS
USC,33-466C	SEC HEW SHALL DEVELOP METHODS TO IDENTIFY & MEASURE EFFECTS OF POLLUTANTS ON WATER USES
USC,33-466C	SEC HEW SHALL ESTABLISH & MAINTAIN FIELD LABORATORY & RESEARCH FACILITIES RE WATER POLLUTION
USC,33-466C	UPON REQUEST OF OTHER AGENCIES SEC HEW MAY RESEARCH SPECIFIC PROBLEMS OF WATER POLLUTION
USC,33-466D	AUTHORITY SEC HEW TO APPROVE PLANS RE WATER POLLUTION BY STATES OR INTERSTATE AGENCIES
USC,33-466D	AUTHORIZATION OF APPROPRIATION FOR GRANTS RE PREVENTION & CONTROL OF WATER POLLUTION
USC,33-466D	CONSIDERATIONS IN MAKING GRANTS TO STATES BY SEC HEW FOR WATER POLLUTION PREVENTION & CONTROL
USC,33-466D	METHOD OF COMPUTATION & PAYMENT OF GRANTS BY SEC HEW FOR WATER POLLUTION CONTROL
USC,33-466D	SEC HEW SHALL PAY TO INTERSTATE AGENCIES AMOUNT EQUIVALENT TO FEDERAL SHARE OF STATE PLAN
USC,33-466D	SEC HEW SHALL PAY TO STATES AMOUNT EQUIVALENT TO FEDERAL SHARE OF STATE PLAN
USC,33-466E	AUTHORITY SEC HEW TO MAKE GRANTS FOR CONSTRUCTION OF SEWERAGE TREATMENT WORKS
USC,33-466E	AUTHORIZATION OF APPROPRIATION FOR GRANTS RE SEWAGE TREATMENT PROJECTS BY SEC HEW
USC,33-466E	FACTORS IN SEC HEW DETERMINATION OF DESIRABILITY OF GRANTS FOR SEWAGE TREATMENT PROJECTS
USC,33-466E	LIMITATION ON GRANTS FOR CONSTRUCTION OF SEWERAGE TREATMENT WORKS BY SEC HEW
USC,33-466I	EACH RECIPIENT OF ASSISTANCE FOR WATER POLLUTION SHALL KEEP RECORDS AS SEC HEW PRESCRIBES
USC,33-466I	SEC HEW & COMP GEN SHALL HAVE ACCESS TO RECORDS OF RECIPIENTS OF GRANTS FOR WATER POLLUTION
USC,33-466L	AUTHORITY SEC HEW TO MAKE STUDIES & COST ESTIMATE RE WATER POLLUTION CONTROL PROGRAMS
USC,33-466K	AUTHORITY SEC HEW TO REPORT TO CONGRESS RE STUDIES ON WATER POLLUTION CONTROL PROGRAMS
USC,33-466M	AUTHORITY SEC INTERIOR TO CONDUCT STUDY RE INCENTIVES FOR CONSTRUCTION OF ANTI-POLLUTION WORKS
USC,33-466M	AUTHORITY SEC INTERIOR TO CONDUCT STUDY RE POLLUTION OF NAVIGABLE WATERS BY WATERCRAFT
USC,33-466M	AUTHORITY SEC INTERIOR TO REPORT TO CONGRESS RE POLLUTION OF NAVIGABLE WATERS BY WATERCRAFT
USC,33-46	AUTHORITY SEC HEW TO SEEK ADVICE & ASSISTANCE OF EXPERTS & CONSULTANTS RE WATER POLLUTION RESEARCH
USC,33-472	AUTHORITY COMMANDANT COAST GUARD TO PROVIDE BUOYS ETC FOR MARKING ANCHORAGE GROUNDS
USC,33-401	NO BRIDGE SHALL BE BUILT OVER U.S. NAVIGABLE WATERS UNTIL APPROVED BY SEC ARMY
USC,33-402	U.S. MAY CONSTRUCT & MAINTAIN WITHOUT CHARGE TELEPHONE & TELEGRAPH LINES OVER CERTAIN BRIDGES
USC,33-408	LIMITATION ON COMMENCEMENT & COMPLETION OF CERTAIN BRIDGES WHEN LAW DOES NOT SO SPECIFY
USC,33-4	SEC ARMY MAY DRAW ON TREASURY FOR SUMS NOT TO EXCEED 9,600 A YEAR TO GAUGE MISSISSIPPI RIVER

KEYWORD	
USC,33-4	SEC ARMY SHALL HAVE WATER GAUGES ESTABLISHED & OBSERVATIONS MADE OF MISSISSIPPI & TRIBUTARIES
USC,33-515	BRIDGE OWNER SHALL SUBMIT WRITTEN GUARANTY OF COST OF ALTERATION TO SEC ARMY
USC,33-516	AUTHORITY SEC ARMY TO APPORTION COST OF BRIDGE ALTERATION BETWEEN US & BRIDGE OWNER
USC,33-517	METHOD OF PAYMENT FOR US SHARE OF BRIDGE ALTERATION COSTS
USC,33-518	FISCAL LAW RE ALTERATION OF BRIDGES OVER NAVIGABLE WATERS
USC,33-519	PENALTIES FOR NONCOMPLIANCE WITH ORDERS OF SEC ARMY RE BRIDGE ALTERATION COSTS
USC,33-523	AUTHORITY SEC ARMY TO APPROVE BRIDGE RELOCATION WHEN ALTERATION NOT PREFERRED
USC,33-525	BUREAU OF PUBLIC ROADS SHALL RESOLVE DISPUTES BETWEEN STATES RE LOCATION OF PRIVATE TOLL BRIDGES
USC,33-525	CONGRESS MAY CONSTRUCT & OPERATE BRIDGES & APPROACHES THERETO OVER NAVIGABLE WATERS
USC,33-525	SEC ARMY MAY APPROVE LOCATIONS & PLANS OF BRIDGES BEFORE CONSTRUCTION COMMENCES
USC,33-525	UNLAWFUL TO CONSTRUCT PRIVATELY OWNED HIGHWAY TOLL BRIDGE UNTIL APPROVED BY STATE HIGHWAY DEPT
USC,33-527	ACQUISITION OF INTERSTATE BRIDGES BY PUBLIC AGENCIES BY CONDEMNATION OR APPROPRIATION
USC,33-527	DETERMINATION OF DAMAGES OR COMPENSATION FOR ACQUISITION OF INTERSTATE BRIDGES BY AGENCIES
USC,33-528	SEC ARMY MAY INVESTIGATE COST STATEMENT OF PRIVATE BRIDGE BUILDERS WITHIN 3 YEARS
USC,33-528	STATEMENT OF COSTS OF PRIVATE INTERSTATE BRIDGES SHALL BE FILED WITH SEC ARMY WITHIN 90 DAYS
USC,33-540	SEC ARMY MAY INVESTIGATE IMPROVEMENTS OF WATERWAYS WITH REGARD FOR WILDLIFE CONSERVATION
USC,33-543	AUTHORITY SEC ARMY TO EMPLOY CIVIL ENGINEERS TO EXECUTE SURVEYS & IMPROVEMENTS ON CERTAIN RIVERS
USC,33-544	AUTHORITY SEC ARMY TO EMPLOY RETIRED ARMY OR NAVY OFFICERS RE IMPROVEMENT OF RIVERS & HARBORS
USC,33-545A	AUTHORITY SEC ARMY TO PREPARE SURVEY REPORTS RE-RIVER & HARBOR IMPROVEMENT
USC,33-545	AUTHORITY SEC ARMY TO CAUSE SURVEYS TO BE MADE ON RIVER & HARBOR IMPROVEMENT
USC,33-545	AUTHORITY SEC ARMY TO DO PRELIMINARY EXAMINATIONS ON RIVER& HARBOR IMPROVEMENT
USC,33-549	SEC ARMY SHALL SUBMIT REPORT TO CONGRESS OF DETERIORATION OF RIVER & HARBOR IMPROVEMENT
USC,33-558B-1	AUTHORITY SEC ARMY TO EXCHANGE LAND OR PROPERTY UNDER CERTAIN CONDITIONS RE FLOOD CONTROL
USC,33-558B	SEC ARMY MAY EXCHANGE GOVT PROPERTY FOR PRIVATE PORPERTY IN THE EXECUTION OF RIVER & HARBOR
USC,33-567	AUTHORITY SEC ARMY TO SURVEY NAVIGATION & FLOOD CONTROL IMPROVEMENTS OF CERTAIN STATES
USC,33-567	SEC ARMY MAY AUTHORIZE CERTAIN STATES TO MAKE NAVIGATION & FLOOD CONTROL IMPROVEMENTS
USC,33-568	LIMITATION ON POWER OF CONGRESS TO CONSIDER RIVER & HARBOR IMPROVEMENT PROJECTS
USC,33-569A	CHIEF OF ARMY ENGINEERS MAY PROCURE TEMPORARY SERVICES OF EXPERTS & CONSULTANTS
USC,33-569	FUNDS APPROPRIATED FOR RIVERS & HARBORS SHALL BE USED TO PURCHASE EQMT FOR EMPLOYEES
USC,33-571	AMOUNTS COLLECTED AS REIMBURSEMENT FOR LOST OR DAMAGED PROPERTY CREDITED TO APPROPRIATION
USC,33-572	SEC ARMY MAY ALLOT FROM HARBOR & RIVER WORK APPROPRIATION FOR DRIFT COLLECTION IN BALTIMORE
USC,33-576	ESTABLISHMENT OF REVOLVING FUND FOR MAINTAINENCE OF OPERATION FOR CORP OF ENGINEERS PLANT & EQMT
USC,33-577	LIMITATION OF ALLOTMENT BY SEC ARMY FOR CONSTRUCTION OF RIVER & HARBOR IMPROVEMENT
USC,33-577	LOCAL INTERESTS MAY BE REQUIRED TO HOLD U.S. FREE FROM DAMAGES FOR RIVER & HARBOR IMPROVEMENT
USC,33-577	SEC ARMY MAY ALLOT FROM RIVER & HARBOR APPROPRIATIONS FOR CONSTRUCTION RE SMALL RIVERS
USC,33-578	AUTHORITY SEC ARMY TO GIVE PUBLIC NOTICE RE PROPOSED CONVEYANCES OF CERTAIN SURPLUS PROPERTY
USC,33-578	CONVEYANCES OF SURPLUS PROPERTY AT FAIR MARKET VALUE RE PUBLIC PORT & INDUSTRIAL FACILITIES
USC,33-578	LIMITATION ON AUTHORITY SEC ARMY TO CONVEY SURPLUS PROPERTY RE PUBLIC PORT & INDUSTRIAL FAC.
USC,33-578	SEC ARMY MAY CONVEY SURPLUS PROPERTY IN CERTAIN CONDITIONS RE PUBLIC PORT OR INDUSTRIAL FAC.
USC,33-578	SEC ARMY MAY DETERMINE FAIR MARKET VALUE OF LANDS CONVEYED RE PUBLIC PORT & INDUSTRIAL FAC.
USC,33-57	AMOUNTS COLLECTED FROM DEFAULTING CONTRACTORS CREDITED TO CERTAIN APPROPRIATIONS RE RIVER & HARBOR
USC,33-581	CORP OF ENGINEERS MAY HIRE SPECIAL MEANS OF TRANSPORTATION FOR RIVER & HARBOR IMPROVEMENT
USC,33-59C-1	AUTHORITY SEC ARMY TO CONDUCT ENGINEERING STUDIES RE LOCATION OF BULKHEADING & FILLING
USC,33-59H	AUTHORITY SEC ARMY TO CONDUCT ENGINEERING STUDIES RE LOCATION OF BULKHEADING & FILLING
USC,33-592	SEC ARMY MAY INITIATE CONDEMNATION TO AID PERSON IN CONVEYING LAND TO U.S.
USC,33-593	SEC ARMY MAY INITIATE CONDEMNATION TO AID ANY STATE AGENCY IN CONVEYING LAND TO U.S.
USC,33-594	SEC ARMY MAY INITIATE CONDEMNATION RE RIVER & HARBOR IMPROVEMENT & TAKE IMMEDIATE POSSESSION
USC,33-598	SEC ARMY MAY ACQUIRE LAND FOR RESETTLEMENT OF PERSONS DISPLACES BY RIVER & HARBOR IMPROVEMENT
USC,33-598	SEC ARMY MAY NEGOTIATE FOR PURCHASE OF PROPERTY FOR PUBLIC WORKS & PAY JUST & REASONABLE PRICE
USC,33-5	SEC ARMY MAY DRAW UPON TREASURY TO OPERATE, MAINTAIN, AND KEEP NAVIGATION WORKS IN REPAIR
USC,33-601	SEC ARMY MAY CAUSE COST OF GAUGINGS OF RESERVOIRS DISCHARGE FROM MISSISSIPPI GAUGING APPROP.
USC,33-601	SEC ARMY MAY PRESCRIBE RULES & REGULATIONS RE USE & ADMINISTRATION OF RESERVOIRS & MISS. HEAD.
USC,33-602	SEC ARMY MAY MAINTAIN CERTAIN CHANNEL WITHOUT EXCEEDING COST OF 10,000 EACH YEAR
USC,33-603A	FISCAL LAW RE SNAG & DEBRIS REMOVAL & CLEARING & PROTECTING CHANNELS IN NAVIGABLE WATERS
USC,33-604	SEC ARMY MAY REMOVE OBSTRUCTIONS FROM CERTAIN RIVERS
USC,33-605	SEC ARMY MAY REQUISITION SUMS NECESSARY TO OPERATE SNAG BOATS ON CERTAIN RIVERS
USC,33-606	SEC ARMY MAY REQUISITION SUMS NECESSARY TO OPERATE SNAG BOATS ON CERTAIN RIVERS
USC,33-607A	SEC ARMY MAY MAINTAIN CERTAIN WATERWAYS & COLLECTION & REMOVAL OF DRIFT AS SEPARATE PROJECT
USC,33-607	SEC ARMY MAY MAINTAIN CERTAIN WATERWAYS BY COLLECTION & REMOVAL OF DRIFT
USC,33-608	SEC ARMY MAY HAVE FISHWAYS CONSTRUCTED UNDER CERTAIN CONDITIONS RE RIVER & HARBOR IMPROVEMENTS
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USC,40A-205	FISCAL LAW RE APPALACHIAN PROGRAM OF MINING AREA RESTORATION RE APPALACHIA
USC,40A-205	LIMITATIONS ON AMOUNT OF GRANTS FOR MINING AREA RESTORATION RE APPALACHIA
USC,40A-205	SEC INTERIOR MAY MAKE GRANTS FOR EXTINGUISHING UNDERGROUND & OUTDOOR MINE FIRE IN APPALACHIA
USC,40A-205	SEC INTERIOR MAY MAKE GRANTS FOR MINING AREA RESTORATION IN APPALACHIAN PROGRAM
USC,40A-206	FISCAL LAW RE APPALACHIAN PROGRAM FOR PLAN TO EFFECTIVELY UTILIZE WATER
USC,40A-206	SEC ARMY MAY MAKE CONTRACTS FOR PREPARATION OF PLAN ON WATER POLLUTION IN APPALACHIA
USC,40A-207	FISCAL LAW RE ESTABLISHMENT OF APPALACHIAN HOUSING FUND
USC,40A-207	LIMITATION ON AMOUNT OF GRANTS FOR PLANNING & OBTAINING INSURED MORTGAGE FOR APPALACHIA HOUSING
USC,40A-207	SEC HUD MAY MAKE GRANTS FOR HOUSING PROJECTS IN APPALACHIA
USC,40A-207	SEC HUD MAY PROVIDE INFORMATION & ASSISTANCE FOR CONSTRUCTION OF HOUSING IN APPALACHIA
USC,40A-211	AUTHORITY SEC HEW TO MAKE GRANTS FOR VOCATIONAL EDUCATION FACILITIES FOR APPALACHIA
USC,40A-211	FISCAL LAW RE APPALACHIAN PROGRAM FOR VOCATIONAL EDUCATION FACILITIES
USC,40A-212	FISCAL LAW RE APPALACHIAN PROGRAM FOR SEWAGE TREATMENT PLANT
USC,40A-212	SEC HEW MAY MAKE GRANTS FOR CONSTRUCTION OF SEWAGE TREATMENT WORKS RE APPALACHIAN PROGRAM
USC,40A-214	FISCAL LAW RE SUPPLEMENTS TO FEDERAL GRANT IN APPALACHIAN PROGRAM
USC,40A-214	LIMITATION ON SUPPLEMENTS TO FEDERAL GRANT PROGRAMS FOR APPALACHIAN AREA
USC,40A-214	PRESIDENT MAY PROVIDE FUNDS FOR SUPPLEMENTS TO GRANT PROGRAMS FOR APPALACHIAN PROGRAM
USC,40A-221	ELIGIBILTIY REQUIREMENTS FOR APPALACHIAN PROGRAMS
USC,40A-221	NO STATE IS REQUIRED TO ENGAGE IN OR ACCEPT PROGRAM UNDER APPALACHIAN REGIONAL DEV. ACT 1965
USC,40A-223	CONDITIONS PREDECENT TO IMPLEMENTING APPALACHIAN PROGRAMS
USC,40A-224	APPALACHIAN REGIONAL COMMISSION MUST SET UP PROCEDURES FOR ESTABLISHING PRIORITIES IN PROGRAMS
USC,40A-224	PROHIBITION AGAINST FINANCIAL ASSISTANCE TO CERTAIN TYPES OF PROJECTS RE APPALACHIAN PROGRAM
USC,40A-250	SEC INTERIOR MAY MAKE SURVEY OF STRIP & SURFACE MINING & REPORT TO PRESIDENT RE APPALACHIA
USC,40A-302	APPALACHIAN REGIONAL COMMISSION MAY MAKE STUDY OF ACID POLLUTION FROM MINING
USC,40A-302	APPALACHIAN REGIONAL COMMISSION MUST SUBMIT POLLUTION REPORT TO PRESIDENT FOR CONGRESS
USC,40A-302	APPALACHIAN REGIONAL COMMISSION SHALL MAINTAIN RECORDS AS REQUIRED BY PRESIDENT
USC,40A-302	ATTY GEN SHALL PROTECT PUBLIC'S RIGHT TO PATENTS BY DISTRICT COURT ACTION RE APPALACHIA
USC,40A-302	FISCAL LAW RE GRANTS RE APPALACHIA FOR ADMINISTRATIVE EXPENSES & RESEARCH & DEMONSTRATION
USC,40A-302	LIMITATIONS ON ISSUANCE OF GRANTS TO APPALACHIAN REGIONAL COMMISSION FOR ADMINISTRATIVE EXPENSES
USC,40A-302	NO EXPENDITURES FOR RESEARCH UNLESS PUBLIC ACCESS TO PATENTS IS ASSURED RE APPALACHIA
USC,40A-302	PRESIDENT MAY MAKE GRANTS TO APPALACHIAN REGIONAL COMMISSION FOR ADMINISTRATION EXPENSES
USC,40A-302	PRESIDENT MAY MAKE GRANTS TO APPALACHIAN REGIONAL COMMISSION FOR RESEARCH, DEMON TRAINING
USC,40A-302	RECIPIENTS OF FEDERAL ASSISTANCE SHALL MAINTAIN RECORDS & REPORT TO REGIONAL COMMISSION
USC,40A-302	RECORDS OF APPALACHIAN REGIONAL COMMISSION ARE AVAILABLE FOR AUDIT BY PRESIDENT & COMP GEN
USC,40A-302	RECORDS OF RECIPIENTS OF FEDERAL ASSISTANCE ARE AVAILABLE FOR AUDIT BY PRESIDENT, COMP GEN
USC,40A-303	ONLY APPLICATIONS FOR GRANTS APPROVED BY STATE MEMBER OF APPALACHIA COMMISSION CAN BE APPROVED
USC,40A-401	FISCAL LAW RE APPALACHIAN PROGRAMS
USC,40A-402	PREVAILING RATE REQUIRED FOR WORKERS ON FEDERALLY ASSISTED PROJECTS RE APPALACHIAN PROGRAM

KEYWORD	
USC,40A-405	APPALACHIAN REGIONAL DEVELOPMENT ACT 1965 EFFECTIVE UNTIL 1 JULY 1971
USC,40A-405	OBSOLETE SEE ALSO SECTIONS 103 THROUGH 405
USC,40-102	PROHIBITION AGAINST PURCHASE OF AILANTHUS PLANTS FOR PUBLIC GROUNDS
USC,40-104	DUTY OF COMM OF FINE ARTS TO SELECT LOCATIONS & MODELS & ARTISTS FOR STATUES & MONUMENTS
USC,40-121	DUTY OF COMMISSION OF FINE ARTS TO REVIEW PLANS FOR CONSTRUCTION OF CERTAIN BUILDINGS IN D.C.
USC,40-124	ROOSEVELT MEMORIAL ASSOCIATION MUST APPROVE T. ROOSEVELT ISLAND GENERAL DEVELOPMENT
USC,40-125	FISCAL LAW RE AUTHORIZATION FOR APPROPRIATIONS T. ROOSEVELT ISLAND
USC,40-128	ADMINISTRATOR GSA TO APPROVE SKETCHES PLANS & ESTIMATES FOR BUILDINGS CONSTRUCTED BY GSA
USC,40-128	POSTMASTER GENERAL & ADMINISTRATOR GSA TO APPROVE PLANS ETC FOR POST OFFICE BUILDINGS
USC,40-129A	AUTHORITY GSA TO CONSTRUCT EQUIP & FURNISH CERTAIN U.S. COURTS IN D.C.
USC,40-129	LEASE OF OFFICE SPACE BY WHOLLY-OWNED GOVT CORPORATIONS
USC,40-13A	AUTHORITY ARCHITECT OF CAPITAL TO CONTRACT FOR MECHANICAL EQUIPMENT RE SUPREME COURT BUILDING
USC,40-13A	AUTHORITY ARCHITECT OF CAPITAL TO CONTRACT FOR REPAIR OF SUPREME COURT BUILDING
USC,40-130	OPERATION MAINTENANCE & CONTROL OF CERTAIN U.S. COURTS OF D.C. UNDER CONTROL OF GSA
USC,40-13	AUTHORITY CAPITAL ARCHITECT TO CONTRACT FOR OPERATION MAINTENANCE EQUIPMENT RE SUPREME COURT BLDG
USC,40-14A	TRANSFER OF RESPONSIBILITY FOR DISBURSEMENT OF BUREAU OF STANDARDS FUNDS TO DEPT OF COMMERCE
USC,40-162	NO CHANGE MAY BE MADE TO CAPITOL ARCHITECTURE OR LANDSCAPE WITHOUT CONGRESS APPROVAL
USC,40-163A	DUTY ARCHITECT OF CAPITOL TO CLEAN & KEEP IN PROPER ORDER CAPITOL BUILDING
USC,40-166C	AUTHORITY ARCHITECT OF CAPITOL TO ACQUIRE CERTAIN SUPPLIES DISPOSED BY GOVT AGENCIES
USC,40-166	IMPROVEMENTS & REPAIRS TO CAPITOL BUILDING TO BE MADE UNDER DIRECTION OF ARCHITECT OF CAPITOL
USC,40-169	ALL FURNITURE FOR HOUSE OF REP. TO BE PROCURED ON DESIGNS & APPROVED BY ARCHITECT OF CAPITOL
USC,40-170	FURNITURE & CARPETS FOR CONGRESS TO BE PURCHASED ONLY ON WRITTEN ORDER OF COMMITTEE CHAIRMEN
USC,40-172	DETAIL ESTIMATES OF PROPOSED MODIFICATIONS TO CAPITOL GROUNDS MADE TO ARCHITECT OF CAPITOL
USC,40-174B	STRUCTURAL CHANGES TO SENATE OFFICE BUILDING MADE ON ARCHITECT OF CAPITOL APPROVAL
USC,40-174C	ANNUAL REPORT TO CONGRESS BY ARCHITECT OF CAPITOL RE DETAIL ESTIMATES FOR CERTAIN EXPENSES
USC,40-174E	DUTY ARCHITECT OF CAPITOL TO CERTIFY CERTAIN VOUCHERS FOR EXPENDITURES RE SENATE OFFICES
USC,40-174J-5	DISBURSEMENTS BY ARCHITECT OF CAPITOL SUBJECT TO AUDIT BY COMP GEN RE SENATE RESTAURENT
USC,40-174K	DISBURSEMENT BY ARCHITECT OF CAPITOL SUBJECT TO AUDIT BY COMP GEN RE REPRESENTATIVES RESTAURENT
USC,40-175	ANNUAL REPORT TO CONGRESS BY ARCHITECT OF CAPITOL RE ESTIMATES FOR EXPENSES FOR HOUSE BUILDING
USC,40-184A	AUTHORIZATION FOR CONSTRUCTION JOHN W MCCORMACK RESIDENTIAL PAGE SCHOOL
USC,40-193A	AUTHORITY D.C. COMMISSIONERS TO ENTER CAPITOL GROUNDS RE CONSTRUCTION OF UTILITY SERVICES
USC,40-193M-1	PRIVATE ORGANIZATIONS WHO PROVIDE SERVICES IN CAPITOL BUILDINGS SUBJECT TO GAO AUDIT
USC,40-210	AUTHORITY SERGEANT AT ARMS CONGRESS TO FURNISH BELTS & ARMS AT 20 MAXIMUM RE CAPITOL POLICE
USC,40-210	AUTHORITY SERGEANT AT ARMS CONGRESS TO SELECT & REGULATE UNIFORM PATTERN RE CAPITOL POLICE
USC,40-255	NOT APPLICABLE TO ERECTION OF CERTAIN DEPT AGRICULTURE STRUCTURES *USC,7-2250A*
USC,40-255	ATTY GEN TO MAKE WRITTEN OPINION RE VALIDITY OF TITLE TO LANDS OR INTERESTS TO BE PURCHASED
USC,40-256	LEGAL SERVICES RE PROCUREMENT OF TITLES TO PUBLIC BUILDING SITES TO BE FURNISHED BY ATTY GEN
USC,40-257	AUTHORITY GOVT AGENCIES TO PROCURE REAL ESTATE FOR PUBLIC BUILDINGS BY CONDEMNATION
USC,40-258A	CONTENTS OF DECLARATION-OF-TAKING RE PROCEEDINGS FOR ACQUISITION OF LAND EASEMENTS ETC
USC,40-258A	LANDS ETC ACQUIRED BY U.S. FOR PUBLIC USE SHALL BE DEEMED TO BE CONDEMNED
USC,40-258A	TITLE TO LANDS ETC VESTS TO U.S. UPON FILING OF DECLARATION-OF-TAKING & DEPOSIT OF MONEY
USC,40-258A	U.S. MAY FILE DECLARATION-OF-TAKING RE PROCEEDINGS FOR ACQUISITION OF LAND EASEMENTS ETC
USC,40-258A	U.S. TO PAY JUST COMPENSATION TO FORMER OWNER OF LANDS ETC ACQUIRED FOR PUBLIC USE
USC,40-258B	EFFECT OF APPEAL PROCEEDING ON VESTING OF TITLE TO LANDS IN U.S. RE CONDEMNATION PROCEEDING
USC,40-258B	PROCEDURE FOR FILING A DECLARATION OF TAKING IN U.S. COURT RE CONDEMNATION
USC,40-258C	APPROVAL OF ULTIMATE AWARD BY COURT IN CONDEMNATION PROCEEDING MUST BE APPROVED BY AGENCY PAYING
USC,40-258D	RIGHT TO TAKE IN ADVANCE OF FINAL JUDGMENT IS ADDITION TO EXISTING RIGHTS OF STATE
USC,40-258E	RIGHT TO TAKE POSSESSION & TITLE TO CONDEMNED LANDS PRIOR TO FINAL JUDGMENT & OTHER RIGHTS
USC,40-258F	AUTHORITY ATTY GEN TO STIPULATE EXCLUSION OF LAND IN CONDEMNATION PROCEEDING
USC,40-261	AUTHORITY ADMINISTRATOR GSA TO CONTRACT WITHIN COST FIXED BY CONGRESS RE LAND FOR PUBLIC BUILDING
USC,40-261	AUTHORITY ADMINISTRATOR GSA TO CONTRACT WITHIN COST FIXED BY CONGRESS RE PUBLIC BUILDINGS
USC,40-270A	*USC,40-270E* AUTHORITY SEC MIL DEPTS & TREASURY TO WAIVE PERFORMANCE & PAYMENT BONDS RE
USC,40-270A	AUTHORITY CONTRACTING OFFICER TO WAIVE PERFORMANCE & PAYMENT BOND REQMTS RE FOREIGN CONSTRUCTION
USC,40-270A	CONTRACTING OFFICER AUTHORITY TO REQUIRE PERFORMANCE BOND OR SECURITY NOT LIMITED BY 40-270A
USC,40-270A	CONTRACTS IN EXCESS OF 2,000 FOR CONSTRUCTION & REPAIR OF PUBLIC BUILDINGS REQUIRE CERTAIN BONDS
USC,40-270A	PAYMENT BOND REQUIRED PRIOR TO CONTRACT AWARD RE CONSTRUCTION OF PUBLIC BUILDINGS & WORKS
USC,40-270A	PERFORMANCE BOND REQUIRED PRIOR TO CONTRACT AWARD RE CONSTRUCTION & REPAIR OF PUBLIC BUILDINGS
USC,40-270A	PERFORMANCE BOND RE CONSTRUCTION & REPAIR PUBLIC BUILDINGS & WORKS RE COVERAGE FOR U.S. TAXES
USC,40-270B	JURISDICTION & VENUE RE SUITS FOR LABOR OR MATERIAL UNDER PAYMENT BONDS RE PUBLIC WORKS CONSTR.
USC,40-270B	RIGHT OF PERSONS PROVIDING LABOR OR MATERIAL TO SUE ON PAYMENT BONDS RE PUBLIC WORKS
USC,40-270B	STATUTE OF LIMITATION RE SUITS FOR LABOR OR MATERIAL UNDER PAYMENT BONDS FOR PUBLIC WORK
USC,40-270C	AUTHORITY COMP GEN TO FURNISH COPIES OF PERFORMANCE & PAYMENT BONDS (40-270A) TO PERSONS
USC,40-270E	AUTHORITY SEC MIL DEPTS & TREASURY TO WAIVE PERFORMANCE & PAYMENT BONDS RE USC,40-270A
USC,40-270F	SEC COMMERCE MAY WAIVE BOND REQUIREMENTS RE CONSTRUCTION & REPAIR OF MERCHANT SHIP ACT
USC,40-276A-1	GOVT RIGHT TO TERMINATE CONTRACT RE NON-PAYMENT OF MINIMUM WAGES UNDER DAVIS-BACON
USC,40-276A-2	AUTHORITY COMP GEN TO PAY WAGES DUE TO LABORERS & MECHANICS UNDER DAVIS-BACON
USC,40-276A-2	COMP GEN SHALL MAINTAIN & DISTRIBUTE LIST OF PERSONS OR FIRMS IN VIOLATION OF DAVIS-BACON
USC,40-276A-2	PROHIBITION AGAINST CONTRACTING WITH PERSONS OR FIRMS IN VIOLATION OF DAVIS-BACON
USC,40-276A-2	RIGHT OF ACTION BY LABORERS & MECHANICS AGAINST CONTRACTOR RE DAVIS-BACON
USC,40-276A-3	LAWS RE WAGES PAID ON PUBLIC WORKS SHALL NOT IMPAIR OR SUPERSEDE OTHER FEDERAL LAW
USC,40-276A-4	EFFECTIVE DATE FOR LAWS RE WAGES PAID FOR WORK ON PUBLIC WORKS
USC,40-276A-5	AUTHORITY PRESIDENT TO SUSPEND DAVIS-BACON DURING NATIONAL EMERGENCY
USC,40-276A-5	DAVIS-BACON USC,40-276A THROUGH
USC,40-276A-7	CONTRACTS MADE WITHOUT ADVERTISING DOES NOT RENDER DAVIS-BACON INAPPLICABLE
USC,40-276A-7	CONTRACT MADE WITHOUT REGARD TO USC,41-5 DOES-NOT RENDER DAVIS-BACON INAPPLICABLE
USC,40-276A-7	COST PLUS FIXED FEE CONTRACT DOES NOT RENDER DAVIS-BACON INAPPLICABLE
USC,40-276A	THROUGH *USC,40-276A-5* DAVIS-BACON
USC,40-276A	ADVERTISED SPECIFICATIONS & CONTRACTS FOR CONSTRUCTION FOR PUBLIC WORKS RE MINIMUM WAGE
USC,40-276A	CONTRACTORS & SUBCONTRACTORS TO PAY MINIMUM WAGES FOR PUBLIC WORKS CONSTRUCTION

KEYWORD	
USC.40-276A	MINIMUM WAGES FOR CONSTRUCTION FOR PUBLIC WORKS TO BE DETERMINED BY SEC LABOR
USC.40-276A	WAGE RATES PER DAVIS-BACON ACT DO NOT SUPERSEDE OTHER FEDERAL LAWS RE SPECIFIC WAGE RATES
USC.40-276C	APPLY TO PUBLIC WORKS FINANCED BY U.S. LOANS OR GRANTS *USC.40-276C* PROVISIONS OF
USC.40-276C	AUTHORITY SEC LABOR TO MAKE REGULATIONS FOR CONTRACTORS & SUBCONTRACTORS ON PUBLIC WORKS
USC.40-276C	CONTRACTORS & SUBCONTRACTORS TO FURNISH SWORN AFFIDAVIT RE WAGES PAID FOR PUBLIC WORKS CONST
USC.40-276C	PROVISIONS OF USC.40-276C APPLY TO PUBLIC WORKS FINANCED BY U.S. LOANS OR GRANTS
USC.40-278A	ALTERATIONS & REPAIRS BY U.S. TO PREMISES RENTED BY U.S. SHALL NOT EXCEED CERTAIN LIMITS
USC.40-278A	LIMITATION OF OBLIGATION OF APPROPRIATING FOR RENT OF REPAIR OF BUILDINGS LEASED BY U.S.
USC.40-278A	MAXIMUM RENTAL OF BUILDINGS TO U.S. SHALL NOT EXCEED 150 OF FAIR MARKET VALUE PER ANNUM
USC.40-278B	LIMITATION OF RENT OR REPAIR OF BUILDINGS LEASED BY U.S. NOT APPLICABLE IN WAR & NAT. EMERGENCY
USC.40-278C	LIMITATION OF RENT OR REPAIR OF BUILDINGS LEASED BY U.S. NOT APPLICABLE WHERE EXEMPTED
USC.40-279	AVAILABILITY OF CERTAIN GSA APPROPRIATIONS RE VAULTS SAFES & LOCKS FOR TEMPORARY RENTED QUARTERS
USC.40-280	AVAILABILITY GSA APPROPRIATIONS FOR OPERATING FORCE & SUPPLIES IN TEMPORARY RENTED QUARTERS
USC.40-281	AVAILABILITY CERTAIN GSA APPROPRIATIONS RE FURNITURE, FOR TEMPORARY RENTED QUARTERS
USC.40-283	PROCUREMENT OF FURNITURE FOR PUBLIC BUILDINGS TO BE PLANS & SPACE APPROVED BY ADMINISTRATOR
USC.40-290	APPLICATION OF STATE WORKMEN'S COMPENSATION LAWS TO U.S. PROJECTS, BUILDINGS, ETC
USC.40-293	ESTABLISHMENT OF WORKING CAPITAL FUND IN GSA FOR EXPENSES RE BLUEPRINTING PHOTOSTATING & DUPLIC.
USC.40-293	FISCAL LAW RE BLUEPRINTING DUPLICATING ETC SERVICES IN GSA
USC.40-293	NO FISCAL-YEAR LIMITATION ON FISCAL LAW RE BLUEPRINTING DUPLICATING ETC SERVICES IN GSA
USC.40-295	AUTHORITY GSA TO PROVIDE & OPERATE CERTAIN PUBLIC UTILITY COMMUNICATIONS SERVICES
USC.40-296	FISCAL LAW RE EXPENSES FOR PLAN & SPECIFICATION PREPARATION, GSA CONSTRUCTION & PLANNING
USC.40-298A	GSA ADMINISTRATOR & POSTMASTER GENERAL MAY ACCEPT GIFTS OR ...AL OR PERSONAL PROPERTY
USC.40-303B	MONEY IS ONLY CONSIDERATION PERMITTED FOR LEASING GOVERNMENT PROPERTY
USC.40-303B	MONEY RECEIVED FROM LEASING GOVERNMENT PROPERTY GOES INTO TREASURY AS MISCELLANEOUS RECEIPTS
USC.40-304A-1	AUTHORIZATION OF APPROPRIATIONS RE EXPENSES INCIDENT TO SALE ETC OF U.S. OWNED REAL PROPERTY
USC.40-304A	AUTHORITY GSA TO DISPOSE OF SURPLUS REAL PROPERTY
USC.40-304B	AUTHORITY ADMINISTRATOR GSA TO REPAIR, ALTER, MAINTAIN & OPERATE CERTAIN REAL PROPERTY
USC.40-304B	FISCAL LAW RE REPAIR, ALTERATION, MAINTENANCE, OPERATION OF CERTAIN REAL PROPERTY
USC.40-304C	AUTHORITY ADMINISTRATOR GSA TO PROCURE SPACE FOR GOVT AGENCIES OUTSIDE D.C. BY LEASE
USC.40-304C	FISCAL LAW RE PROCUREMENTS BY LEASE OF SPACE FOR GOVT AGENCIES OUTSIDE D.C.
USC.40-304F	FISCAL LAW RE EXPENSES REGARDING PROPERTY ABANDONED TO U.S.
USC.40-304	AUTHORITY GSA TO DISPOSE OF LAND ACQUIRED BY DEVISE AS EXCESS PROPERTY UNDER FPASA
USC.40-310	AUTHORITY ADMINISTRATOR GSA TO MAKE CONTRACTS RE SALE PRESERVATION OF ABONDONED TO U.S. PROPERTY
USC.40-313-2	FEDERAL PROPERTY & ADMINISTRATIVE SERVICES ACT APPLICABLE TO PURCHASE OF TYPEWRITERS
USC.40-314	AUTHORITY TO SELL WAR SUPPLIES BUILDINGS
USC.40-327 THROUGH	*USC.40-332* CONTRACT WORK HOURS STANDARDS ACT
USC.40-327 -	*USC.40-333* CONTRACT WORK HOURS & SAFETY STANDARDS ACT
USC.40-328	CONTRACTORS & SUBCONTRACTORS LIABLE FOR LIQUIDATED DAMAGES RE CONTRACT WORK HOURS STANDARDS
USC.40-328	CONTRACT PROVISIONS SET FORTH FOR CERTAIN U.S. CONTRACTS RE CONTRACT WORK STANDARDS ACT
USC.40-328	GOVT AGENCIES MAY WITHHOLD MONEYS DUE CONTRACTOR RE VIOLATIONS ON CONTRACT WORK HOURS STANDARDS
USC.40-328	LABORERS & MECHANICS RECEIVE 1 1/2 TIMES WAGES FOR WORK IN EXCESS OF 8 HR DAY 40 HR WEEK
USC.40-328	STANDARD WORKDAY & WORKWEEK DEFINES FOR CONTRACT WORK HOURS STANDARDS ACT
USC.40-328	WAGES OF LABORERS & MECHANICS ON U.S. CONTRACTS COMPUTED ON 8 HR DAY 40 HRS PER WEEK
USC.40-328	CONTRACTS FINANCES BY U.S. LOANS OR GRANTS SUBJECT TO CONTRACT WORK HOURS STANDARDS
USC.40-329	CONTRACT WORK HOURS STANDARDS ACT NOT APPLICABLE TO CERTAIN TRANSPORTATION CONTRACTS
USC.40-329	CONTRACT WORK HOURS STANDARDS ACT NOT APPLICABLE TO CONTRACTS FOR ITEMS AVAILABLE ON OPEN MARKET
USC.40-329	CONTRACT WORK HOURS STANDARDS ACT NOT APPLICABLE TO CONTRACTS FOR TRANSMISSION OF INTELLIGENCE
USC.40-329	CONTRACT WORK HOURS STANDARDS NOT APPLICABLE TO U.S. CONTRACTS UNDER WALSH-HEALY ACT
USC.40-329	DEFINITION OF CONTRACTS APPLICABLE TO CONTRACT WORK HOURS STANDARDS
USC.40-33A	RESTRICTION ON FUNDS OF GOVT CORPORATIONS FOR PURCHASE OR CONSTRUCTION OF OFFICE BUILDINGS
USC.40-330	DUTY COMP GEN TO PAY DIRECTLY TO LABORERS & MECHANICS RE CONTRACT WORK HOURS STANDARDS
USC.40-330	REQUIREMENT THAT VIOLATIONS OF CONTRACT WORK HOURS STANDARDS ACT BE REPORTED
USC.40-330	REQUIREMENT TO WITHHOLD LIQUIDATED DAMAGES RE VIOLATIONS OF CONTRACT WORK HOURS STANDARDS ACT
USC.40-330	REQUIREMENT TO WITHHOLD LIQUIDATED DAMAGES RE CONTRACT WORK STANDARDS ACT
USC.40-330	REVIEW OF ADMINISTRATIVE DETERMINATIONS OF LIQUIDATED DAMAGES RE CONTRACT WORK HOURS STANDARDS
USC.40-330	RIGHT OF ACTION BY CONTRACTORS & SUBCONTRACTORS RE CONTRACT WORK HOURS STANDARDS ACT
USC.40-330	RIGHT OF ACTION BY LABORERS & MECHANICS RE CONTRACT WORK HOURS STANDARDS ACT
USC.40-331	SEC LABOR MAY MAKE RULES & REGULATIONS RE CONTRACT WORK HOURS STANDARDS ACT
USC.40-332	CONTRACT WORK HOURS STANDARDS ACT USC.40-327 THROUGH
USC.40-332	CRIMINAL PENALTY RE INTENTIONAL VIOLATION OF CONTRACT WORK HOURS STANDARDS ACT
USC.40-333	AUTHORITY GOVT AGENCY TO CANCEL CERTAIN CONTRACTS RE NON-COMPLIANCE HEALTH & SAFETY STANDARDS
USC.40-333	AUTHORITY & JURISDICTION OF SEC LABOR RE NON-COMPLIANCE OF CONSTRUCTION RE HEALTH STANDARDS
USC.40-333	AUTHORITY & JURISDICTION U.S. DISTRICT COURTS RE CON-COMPLIANCE CONSTRUCTION RE HEALTH & SAFETY
USC.40-333	COMP GEN TO NOTIFY GOVT AGENCIES RE CERTAIN CONTRACTORS VIOLATING CONSTRUCTION HEALTH & SAFETY
USC.40 333	CONTRACT PROVISION FOR CERTAIN CONSTRUCTION & ALTERATION & REPAIR CONTRACTS RE HEALTH & SAFETY
USC.40-333	CONTRACT WORK HOURS & SAFETY STANDARDS ACT USC.40-327 -
USC.40-333	DEBARRMENT OF CERTAIN CONTRACTORS VIOLATING CONSTRUCTION HEALTH & SAFETY STDS.
USC.40-333	ESTABLISHMENT OF ADVISORY COMMITTEE ON CONSTRUCTION SAFETY & HEALTH STANDARDS
USC.40-333	PROHIBITION AGAINST CONTRACTING WITH CERTAIN CONTRACTORS VIOLATING CONSTRUCTION HEALTH & SAFETY
USC.40-333	RIGHT OF ACTION BY CERTAIN DEBARRED CONTRACTORS RE CONSTRUCTION HEALTH & SAFETY STD.
USC.40-333	SEC LABOR MAY ESTABLISH EDUCATION PROGRAMS RE CONSTRUCTION SAFETY AND HEALTH
USC 40-333	SEC LABOR MAY MAKE INSPECTIONS RE HEALTH & SAFETY STANDARDS UNDER CERTAIN U.S. CONTRACTS
USC.40-345B	AUTHORITY GSA TO DISPOSE OF OBSOLETE BUILDINGS AND SITES
USC.40-34	RESTRICTION ON CONTRACTS FOR RENT OF BUILDINGS IN DC FOR GOVT USE UNTIL APPROPRIATIONS ARE MADE
USC.40-34	TERMS OF APPROPRIATION APPLY NOTIFICATION TO CONTRACTORS OR LESSORS RE RENT OF BUILDINGS IN DC
USC.40-356A	ADMINISTRATOR GSA MAY NEGOTIATE LEASE PURCHASE CONTRACTS RE D.C. REDEVELOPMENT
USC.40-356A	GSA LEASE PURCHASE CONTRACTS SHALL CONFORM TO PLAN FOR D.C. REDEVELOPMENT
USC.40-356	ADMINISTRATOR GSA MAY MAKE LEASE PURCHASE CONTRACTS FOR PROPERTY
USC.40-356	CONGRESS MUST APPROVE LEASE PURCHASE PROJECTS PROPOSED BY GSA
USC.40-356	CONTRACT PROVISIONS FOR LEASE PURCHASE CONTRACTS FOR PROPERTY MADE BY GSA

KEYWORD	
USC,40-357	LIMITATION ON USE OF LEASE PURCHASE CONTRACTS FOR PROPERTY
USC,40-35	AUTHORITY OF EXECUTIVE DEPARTMENTS TO RENT BUILDINGS FOR PUBLIC USE IN DISTRICT-OF-COLUMBIA
USC,40-461	SEC HUD MAY MAKE PLANNING GRANTS RE URBAN & RURAL DEVELOPMENT
USC,40-462	SEC HUD MAY MAKE ADVANCE PAYMENTS RE PUBLIC WORKS PLANNING FOR PUBLIC AGENCIES & INDIANS
USC,40-471	CONGRESSIONAL POLICY RE PROCUREMENT, SUPPLY, UTILIZATION & DISPOSAL OR PROPERTY & RECORDS MGT
USC,40-471	INTENT OF CONGRESS TO PROVIDE ECONOMICAL & EFFICIENT SYSTEM FOR PROPERTY MGT AND DISPOSAL
USC,40-472	DEFINITION OF CARE & HANDLING, PERSON.-NONPERSONAL SERVICES, CONTRACTOR INVENTORY
USC,40-472	DEFINITION OF EXCESS PROPERTY, FOREIGN EXCESS PROPERTY RE FPASA
USC,40-472	DEFINITION OF EXECUTIVE AGENCY, FEDERAL AGENCY, ADMINISTRATOR, PROPERTY, RE FPASA
USC,40-472	DEFINITION OF MOTOR VEHICLES RE FPASA
USC,40-472	DEFINITION OF SURPLUS PROPERTY RE FPASA
USC,40-473	STATUS OF PRE-EXISTING POLICIES PROCEDURES & DIRECTIVES RE FPASA
USC,40-474(10)(B)	SEC AGRICULTURE EXEMPT FPASA RE 42-640L
USC,40-474(11)	SEC HUD EXEMPT FROM FPASA RE CERTAIN INSURANCE UNDER NATIONAL HOUSING ACT
USC,40-474(11)	SEC HUD NEW EXEMPT FROM FPASA RE DISPOSAL OF RESIDENTIAL PROPERTY
USC,40-474(12)	TVA EXEMPT FROM FPASA RE CERTAIN NONPERSONAL SERVICES & PROPERTY
USC,40-474(13)	AEC EXEMPT FROM FPASA
USC,40-474(14)	ESSA EXEMPT FROM FPASA RE DISPOSAL OF AIRPORT PROPERTY
USC,40-474(14)	FAA EXEMPT FROM FPASA RE DISPOSAL OF AIRPORT PROPERTY
USC,40-474(15)	POSTMASTER GENERAL EXEMPT FROM FPASA RE LEASE & ACQUISITION OF REAL PROPERTY
USC,40-474(15)	POSTMASTER GENERAL EXEMPT FROM FPASA RE MAIL TRANSPORTATION & DISTRIBUTION
USC,40-474(16)	MARITIME COMM. EXEMPT FROM FPASA RE CONSTRUCTION, PROCUREMENT, OPERATION OF VESSELS ETC
USC,40-474(17)	CENTRAL INTELLIGENCE AGENCY EXEMPT FROM FPASA
USC,40-474(18)	JOINT COMMITTEE ON PRINTING EXEMPT FROM FPASA
USC,40-474(19)	EXEMPTION FROM FPASA WHEN PRESIDENT DETERMINES IT IS IN NATIONAL INTEREST
USC,40-474(1)	PRESIDENT EXEMPT FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT
USC,40-474(20)	SEC INTERIOR EXEMPT FPASA RE PROCUREMENT FOR PROGRAM OPERATIONS BONNEVILLE ACT
USC,40-474(2)	EXECUTIVE AGENCIES EXEMPT FPASA RE CERTAIN FARM PROGRAMS
USC,40-474(2)	EXECUTIVE AGENCIES EXEMPT FPASA RE FOREIGN AID
USC,40-474(3)	EXECUTIVE AGENCIES UNDER ARMED SERVICES PROCUREMENT ACT EXEMPT FPASA
USC,40-474(4)	DOD EXEMPT FPASA RE PROPERTY FOR OCCUPIED TERRITORIES
USC,40-474(5)	SEC DEF EXEMPT FPASA RE NATIONAL INDUSTRIAL RESERVE ACT
USC,40-474(6)	SEC DEF & SECS MILITARY DEPTS EXEMPT FPASA RE STRATEGIC & CRITICAL MATERIALS
USC,40-474(7)	SEC STATE EXEMPT FPASA RE FOREIGN SERVICE BUILDINGS ACT
USC,40-474(8)	SEC MILITARY DEPTS EXEMPT FROM FPASA RE 50-1171(B)
USC,40-474(9)	SEC AGRICULTURE EXEMPT FPASA RE ACT OF AUGUST 31,1947
USC,40-474(9)	SEC AGRICULTURE EXEMPT FPASA RE 7-1291 & 7-1622(I)
USC,40-474(9)	SEC AGRICULTURE EXEMPT FPASA RE 7-612C
USC,40-474(9)	SEC AGRICULTURE EXEMPT FROM FPASA RE FARMERS HOME ADMINISTRATION ACT
USC,40-474(9)	SEC AGRICULTURE EXEMPT FROM FPASA RE NATIONAL SCHOOL LUNCH ACT
USC,40-474	APPLICABILITY OF FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT
USC,40-474	40-486(B) & 40-487(C) NOT APPLICABLE TO GOVT CORPORATIONS UNDER GOVT CORPORATION CONTROL ACT
USC,40-475	AUTHORITY OMB TO ALLOW USE OF CERTAIN FUNDS FOR PROPERTY DISPOSAL
USC,40-475	FISCAL LAW RE AUTHORIZATION & ADVANCE PAYMENT RE LIBRARY MEMBERSHIPS
USC,40-481	ADMINISTRATOR GSA MAY CONSOLIDATE & OPERATE WAREHOUSES, SUPPLY CENTERS
USC,40-481	ADMINISTRATOR GSA MAY PRESCRIBE POLICIES RE CONTRACTING, INSPECTION, STORAGE, ISSUE
USC,40-481	ADMINISTRATOR GSA MAY PRESCRIBE POLICIES RE PROPERTY IDENTIFICATION & CLASSIFICATION
USC,40-481	ADMINISTRATOR GSA MAY PRESCRIBE POLICIES RE REPAIRING & CONVERTING
USC,40-481	ADMINISTRATOR GSA MAY PRESCRIBE POLICIES & METHODS OF PROCUREMENT RE NONPERSONAL SERVICES
USC,40-481	ADMINISTRATOR GSA MAY PRESCRIBE POLICIES & METHODS OF PROCUREMENT RE PERSONAL PROPERTY
USC,40-481	ADMINISTRATOR OF GSA MAY CONSOLIDATE & OPERATE REPAIR SHOPS AND FUEL YARDS
USC,40-481	ADMINISTRATOR OF GSA MAY PRESCRIBE POLICIES RE TRANSPORTATION, TRAFFIC MGT, PUBLIC UTILITY
USC,40-481	EXECUTIVE AGENCY MAY EXCHANGE OR SELL PERSONAL PROPERTY UNDER GSA REGULATIONS
USC,40-481	EXECUTIVE AGENCY MAY FURNISH SERVICES, MATERIAL, WORK & EQMT TO OTHER AGENCIES WITHOUT REIMB
USC,40-481	EXECUTIVE AGENCY MAY USE SERVICES & EQMT OF OTHER EXECUTIVE AGENCIES RE INSPECTION
USC,40-481	GSA MAY PROCURE & SUPPLY PERSONAL PROPERTY & NON PERSONAL SERVICES FOR EXECUTIVE AGENCIES
USC,40-481	GSA MAY REPRESENT EXECUTIVE AGENCIES RE NEGOTIATION OF PUBLIC UTILITY & TRANSPORTATION CONTRACTS
USC,40-481	PUBLIC UTILITY SERVICE CONTRACTS MADE BY GSA MAY NOT EXCEED 10 YEARS
USC,40-482	SENATE OR HOUSE REPRESENTATIVES INCLUDES ARCHITECT OF CAPITOL FOR PURPOSES OF FPASA
USC,40-483A	TRANSFER OF VESSELS BETWEEN AGENCIES PERMITTED
USC,40-483B	FISCAL LAW RE UTILIZATION OF EXCESS FURNITURE
USC,40-483B	PROHIBITION AGAINST PURCHASE OF FURNITURE WHERE EXCESS FURNITURE CAN BE UTILIZED
USC,40-483	GSA SHALL PRESCRIBE POLICIES & METHODS RE UTILIZATION OF EXCESS PROPERTY BY EXECUTIVE AGENCIES
USC,40-484	ASSIGNMENT OF SURPLUS PROPERTY TO HEW FOR DISPOSAL RE EDUCATION & PUBLIC HEALTH & RESEARCH
USC,40-484	AUTHORITY EXECUTIVE AGENCIES TO AUTHORIZE DISPOSAL OF CONTRACTOR INVENTORY BY CONTRACTOR
USC,40-484	CIRCUMSTANCES FOR NEGOTIATION OF CONTRACTS FOR DISPOSAL OF SURPLUS PROPERTY
USC,40-484	CONTRACTS FOR DISPOSAL OF SURPLUS PROPERTY SHALL BE MADE AFTER PUBLICLY ADVERTISING FOR BIDS
USC,40-484	DISPOSITION OF SURPLUS PROPERTY SHALL BE IN ACCORDANCE WITH FPASA
USC,40-484	EMPLOYMENT OF CONTRACT REALTY BROKERS RE CONTRACTS FOR DISPOSAL OF SURPLUS PROPERTY
USC,40-484	EXECUTIVE AGENCIES MAY AUTHORIZE DISPOSAL OF SUBCONTRACTOR INVENTORY BY SUBCONTRACTOR
USC,40-484	GSA SHALL PRESCRIBE REGULATIONS RE CONTRACTS FOR DISPOSAL OF SURPLUS PROPERTY BY ADVERTISING
USC,40-484	GSA SHALL PRESCRIBE REGULATIONS RE CONTRACTS FOR DISPOSAL OF SURPLUS PROPERTY
USC,40-484	GSA SHALL SUPERVISE & DIRECT DISPOSITION OF SURPLUS PROPERTY
USC,40-484	GSA TO PRESCRIBE REGULATIONS RE DISPOSAL OF CONTRACTOR INVENTORIES
USC,40-484	LIST OF METHODS FOR DISPOSAL OF SURPLUS PROPERTY
USC,40-484	POLICY RE DISPOSAL OF SURPLUS AGRICULTURAL COMMODITIES BY DEPT OF AGRICULTURE
USC,40-484	POLICY RE DISPOSAL OF SURPLUS VESSELS BY U.S. MARITIME COMMISSION
USC,40-484	POLICY RE DONATION OF SURPLUS PROPERTY
USC,40-484	REPORT TO CONGRESS BY HEW RE SURPLUS PROPERTY

KEYWORD	
USC,40-484	REQUIREMENTS FOR ADVERTISEMENT FOR BIDS FOR SURPLUS PROPERTY DISPOSAL
USC,40-484	REQUIREMENT FOR REPORT TO CONGRESS RE NEGOTIATED SALE OF SURPLUS PROPERTY
USC,40-484	RESPONSIBILITY FOR CARE & HANDLING OF SURPLUS PROPERTY
USC,40-484	WIDE PUBLIC NOTICE REQUIRED RE AVAILABILITY OF SURPLUS PROPERTY FOR DISPOSAL
USC,40-485(A)	PROCEEDS FROM DISPOSITION OF SURPLUS PROPERTY GOES INTO TREASURY AS MISCELLANEOUS RECEIPTS.
USC,40-485(B)	FISCAL LAW EXPENSES INCURRED FOR UTILIZATION & DISPOSAL OF SURPLUS PROPERTY
USC,40-485(C)	AGENCY DISPOSING OF SURPLUS PROPERTY MAY DEPOSIT IN SPECIAL TREASURY
USC,40-485(E)	CONTRACT PROVISION RE CREDITING SALE PROCEEDS OF PROPERTY IN CUSTODY OF CONTRACTOR
USC,40-485(E)	SALE PROCEEDS OF PROPERTY IN CONTRACTOR CUSTODY MAY BE CREDITED TO PRICE OR COST
USC,40-485(E)	SALE PROCEEDS OF PROPERTY IN CUSTODY OF CONTRACTOR RE CREDIT TO CONTRACT PRICE OR COST
USC,40-485(F)	RECEIPT OF STRATEGIC OR CRITICAL MATERIALS AS PAYMENT FOR LEASE OR SALE OF SURPLUS PROPERTY
USC,40-485	PROCEEDS FROM SALE OF PROPERTY HELD BY CONTRACTOR OR SUBCONTRACTOR TO OFFSET AGAINST CONTRACT
USC,40-486(A)	AUTHORITY PRESIDENT TO PRESCRIBE POLICIES & DIRECTIVES RE FPASA
USC,40-486(B)	COMP GEN TO ASSIST IN DEVELOPMENT OF APPROVED PROPERTY ACCOUNTING SYSTEM
USC,40-486(B)	COMP GEN TO EXAMINE PROPERTY ACCOUNTING SYSTEMS FOR COMPLIANCE
USC,40-486(B)	COMP GEN TO PRESCRIBE PRINCIPLES & STANDARDS OF ACCOUNTING FOR PROPERTY
USC,40-486(B)	COMP GEN TO REPORT TO CONGRESS RE NONCOMPLIANCE WITH PROPERTY ACCOUNTING SYSTEMS
USC,40-486(C)	ADMINISTRATOR GSA MAY PRESCRIBE REGULATIONS RE FPASA
USC,40-486(C)	AGENCIES TO ISSUE ORDERS & DIRECTIVES RE GSA REGULATIONS ISSUED UNDER FPASA
USC,40-486(D)	ADMINISTRATOR GSA MAY DELEGATE & REDELEGATE CERTAIN AUTHORITIES UNDER FPASA
USC,40-486(D)	AUTHORITY TO ISSUE POLICY REGULATIONS UNDER FPASA CANNOT BE DELEGATED BY GSA ADMINISTRATOR
USC,40-486(E)	ADMINISTRATOR GSA MAY DELEGATE FUNCTIONS VESTED BY FPASA
USC,40-486(F)	ADMINISTRATOR GSA MAY TRANSFER PERSONNEL & PROPERTY & FUNDS RE DELEGATED FUNCTION UNDER FPASA
USC,40-486(H)	ADMINISTRATOR GSA SHALL ADVISE & CONSULT WITH FEDERAL AGENCIES RE FPASA
USC,40-486(I)	AUTHORITY CERTAIN GSA EMPLOYEES TO ADMINISTER OATHS RE FPASA
USC,40-487	ADMINISTRATOR GSA MAY COOPERATE WITH EXECUTIVE AGENCIES TO ESTABLISH INVENTORY LEVELS
USC,40-487	ADMINISTRATOR GSA MAY COORDINATE WITH DOD RE UNIFORM FEDERAL SUPPLY CATALOG SYSTEM
USC,40-487	ADMINISTRATOR GSA MAY ESTABLISH & MAINTAIN UNIFORM FEDERAL SUPPLY CATALOG SYSTEM
USC,40-487	ADMINISTRATOR GSA MAY MAKE SURVEYS RE GOVT PROPERTY & GOVT PROPERTY MGT PRACTICES
USC,40-487	ADMINISTRATOR GSA MAY OBTAIN AGENCY REPORTS RE GOVT PROPERTY & MGT PRACTICES
USC,40-487	ADMINISTRATOR GSA MAY PRESCRIBE STANDARD FORMS & PROCEDURES RE PROPERTY MGT
USC,40-487	ADMINISTRATOR GSA MAY PRESCRIBE STANDARD PURCHASE SPECIFICATIONS
USC,40-487	ADMINISTRATOR GSA SHALL REPORT EXCESS INVENTORY LEVELS TO CONGRESS & OMB
USC,40-487	AUDIT OF PROPERTY ACCOUNTS & TRANSACTIONS BY COMP GEN BASED ON ACCEPTED AUDITING STANDARDS
USC,40-487	FEDERAL AGENCIES SHALL UTILIZE STANDARDIZED FORMS & PROCEDURES RE PROPERTY MGT
USC,40-487	FEDERAL AGENCIES SHALL UTILIZE STANDARD PURCHASE SPECIFICATIONS
USC,40-487	FEDERAL AGENCIES SHALL UTILIZE UNIFORM FEDERAL SUPPLY CATALOG SYSTEM
USC,40-487	UNIFORM FEDERAL SUPPLY CATALOG SYSTEM TO IDENTIFY & CLASSIFY FEDERAL PERSONAL PROPERTY
USC,40-488	DISPOSAL OF CERTAIN REAL & PERSONAL PROPERTY NOT SUBJECT TO REVIEW RE ANTITRUST LAW
USC,40-488	DISPOSAL OF PATENTS, PROCESSES SUBJECT TO ATTY GEN REVIEW FOR ANTITRUST LAWS
USC,40-488	EXECUTIVE AGENCIES SHALL CONSULT WITH ATTY GEN RE APPLICABILITY ANTITRUST TO PROPERTY DISPOSAL
USC,40-488	GOVT DISPOSAL OF TECHNIQUES, INVENTIONS SUBJECT TO ATTY GEN REVIEW RE ANTITRUST LAW
USC,40-489	JURISDICTION & VENUE DISTRICT COURTS RE MISUSE OF PROPERTY PROCURED ETC UNDER FPASA
USC,40-489	LIABILITY OF GOVT EMPLOYEES RE TRANSFER OR DISPOSITION OF PROPERTY UNDER FPASA LIMITED TO FRAUD
USC,40-489	PENALTY FOR MISUSE OF PROPERTY PROCURED TRANSFERRED OR DISPOSED OF UNDER FPASA IS DOUBLE DAMAGES
USC,40-490(A)(14)	AUTHORITY GSA TO CONTRACT FOR 3 YEAR PERIODS FOR BUILDING EQUIPMENT MAINTENANCE
USC,40-490(A)	GENERAL DUTIES ADMINISTRATOR GSA RE OPERATION MAINTENANCE PROTECTION OF CERTAIN BUILDINGS
USC,40-490(C)	AUTHORITY ADMINISTRATOR GSA TO ACQUIRE LAND FOR BUILDINGS & PROJECTS AUTHORIZED BY CONGRESS
USC,40-490(C)	AUTHORITY ADMINISTRATOR GSA TO CONTRACT FOR SURVEYS, TEST BORINGS FOR LAND ACQUISITION
USC,40-490(C)	AUTHORITY ADMINISTRATOR GSA TO CONTRACT FOR & SUPERVISE CONSTRUCTION OF BUILDINGS
USC,40-490(C)	AUTHORITY ADMINISTRATOR GSA TO MAKE PLANS & SPECIFICATIONS FOR BUILDINGS & PROJECTS
USC,40-490(C)	FISCAL LAW RE TRANSFER OF FUNDS TO GSA FOR CONSTRUCTION SERVICES
USC,40-490(F)	FISCAL LAW RE BUILDINGS MANAGEMENT FUND FOR BUILDINGS MANAGEMENT OPERATIONS
USC,40-490(H)	AUTHORITY ADMINISTRATOR GSA TO MAKE LEASE AGREEMENTS FOR BUILDING SPACE FOR LIMITED PERIODS
USC,40-490(I)	AUTHORITY FEDERAL AGENCIES TO INSTALL REPAIR REPLACE SIDEWALKS
USC,40-491	ADMINISTRATOR GSA SHALL MAINTAIN RECORDS RE MOTOR VEHICLE POOLS & SYSTEMS
USC,40-491	ADMINISTRATOR GSA TO ESTABLISH MOTOR VEHICLE POOLS & SYSTEMS
USC,40-491	AUTHORITY ADMINISTRATOR GSA TO ACQUIRE MOTOR VEHICLES & RELATED EQUIPMENT
USC,40-491	FISCAL LAW AVAILABILITY GENERAL SUPPLY FUND FOR COSTS OF MOTOR VEHICLE POOLS OR SYSTEMS
USC,40-491	MOTOR VEHICLES ACQUIRED BY U.S. SHALL BE CONSPICUOUSLY IDENTIFIED PER CERTAIN SPECIFICATIONS
USC,40-491	REQUIREMENT FOR GSA DETERMINATION RE ESTABLISHMENT MOTOR VEHICLE POOLS & SYSTEMS
USC,40-492	ADMINISTRATOR GSA TO SUBMIT ANNUAL REPORT TO CONGRESS RE ADMINISTRATION OF FUNCTIONS UNDER FPASA
USC,40-50	ANNUAL REPORT REQUIRED FROM CHIEF OF ENGINEERS TO SEC ARMY RE DC AQUEDUCT & OTHER PUBLIC WORKS
USC,40-511	AGENCY HAVING FOREIGN EXCESS PROPERTY IS RESPONSIBLE FOR DISPOSAL
USC,40-512	METHODS AND TERMS FOR DISPOSAL OF FOREIGN EXCESS PROPERTY
USC,40-512	NO FOREIGN EXCESS PROPERTY CAN BE SOLD WITHOUT CONDITION FORBIDDING IMPORTATION INTO U.S.
USC,40-513	AUTHORIZES AGENCY DISPOSING OF FOREIGN EXCESS PROPERTY TO DEPOSIT PROCEEDS IN SPECIAL ACCOUNT
USC,40-514	PRESIDENT MAY PRESCRIBE POLICIES RE DISPOSAL OF FOREIGN EXCESS PROPERTY
USC,40-531	AUTHORITY ADMINISTRATOR GSA TO ACQUIRE CERTAIN LANDS RE URBAN LAND UTILIZATION
USC,40-533	NOTIFICATION REQUIREMENTS BY GSA PRIOR TO ACQUISITION REAL PROPERTY RE URBAN LAND [illegible]
USC,40-534	WAIVER OF PROCEDURES LAND ACQUISITION FOR URBAN UTILIZATION DURING NATIONAL EMERGENCY
USC,40-54	SEC ARMY SHALL DIRECT EXPENDITURES OF APPROPRIATIONS FOR DC AQUEDUCT & OTHER PUBLIC WORKS
USC,40-55	RESTRICTION ON NUMBER OF WATER PIPES OF WASHINGTON DC AQUEDUCT THAT U.S. WILL PAY FOR
USC,40-601	PROHIBITION ON CONSTRUCTION OF PUBLIC BUILDINGS EXCEPT BY ADMINISTRATOR GSA
USC,40-602	AUTHORITY ADMINISTRATOR TO ACQUIRE PUBLIC BUILDINGS BY PURCHASE CONDEMNATION
USC,40-603	AUTHORITY ADMINISTRATOR GSA TO SELECT & ACQUIRE LAND FOR ALTERATION OF PUBLIC BUILDINGS
USC,40-604	ADMINISTRATOR GSA & POSTMASTER GENERAL SHALL JOINTLY SELECT SITE FOR [illegible] POST OFFICE BUILDINGS
USC,40-604	AUTHORITY ADMINISTRATOR GSA TO ACQUIRE LAND FOR CONSTRUCTION OF PUBLIC BUILDINGS
USC,40-604	AUTHORITY ADMINISTRATOR TO SELECT & ACQUIRE REAL PROPERTY FOR PUBLIC BUILDINGS

KEYWORD	
USC,40-604	REQUIREMENTS FOR SOLICITATION OF PROPOSALS FOR ACQUISITION OF REAL PROPERTY RE PUBLIC BUILDINGS
USC,40-605	AUTHORITY ADMINISTRATOR GSA TO DEMOLISH OR EXCHANGE EXISTING PUBLIC BUILDINGS
USC,40-605	PROJECT APPROVAL BY CONGRESS REQUIRED RE USE OF LAND AS SITE FOR PUBLIC BUILDING
USC,40-606	LIMITATION OF APPROPRIATIONS TO CONSTRUCT PUBLIC BUILDINGS WITHOUT APPROVAL OF CONGRESS
USC,40-606	LIMITATION ON INCREASE IN ESTIMATED MAXIMUM COST OF CONSTRUCTION OF PUBLIC BUILDINGS
USC,40-606	RECISSION OF APPROVAL BY CONGRESS RE CONSTRUCTION OF PUBLIC BUILDINGS
USC,40-606	REQUIREMENTS FOR SUBMITTAL OF PROPOSED PROJECTS TO CONGRESS RE CONSTRUCTION OF PUBLIC BUILDINGS
USC,40-606	RESTRICTION ON APPROVAL OF CONSTRUCTION PROJECTS BY CONGRESS RE PUBLIC BUILDINGS
USC,40-607	DUTIES OF ADMINISTRATOR GSA RE PUBLIC BUILDING CONSTRUCTION WITHIN D.C.
USC,40-607	DUTIES OF ARCHITECT OF CAPITOL RE PUBLIC BUILDING CONSTRUCTION IN D.C.
USC,40-607	DUTIES OF CONGRESS RE PUBLIC BUILDING CONSTRUCTION IN D.C.
USC,40-607	DUTIES OF D.C. GOVT RE PUBLIC BUILDING CONSTRUCTION WITHIN D.C.
USC,40-607	DUTIES OF NATIONAL CAPITAL PLANNING COMM RE PUBLIC BUILDING CONSTRUCTION IN D.C.
USC,40-607	REQUIREMENTS FOR CONSTRUCTION OF PUBLIC BUILDINGS WITHIN D.C.
USC,40-608	ADMINISTRATOR OF GSA MAY CONTRACT FOR CONSTRUCTION OR ALTERATION OF PUBLIC BUILDINGS
USC,40-609	ADMINISTRATOR GSA MAY CONTRACT FOR ARCHITECT & ENGINEER SERVICES RE PUBLIC BUILDINGS
USC,40-609	ADMINISTRATOR GSA RESPONSIBLE FOR CONSTRUCTION, CONTRACT INTERPRETATION, MATERIALS APPROVAL
USC,40-609	ADMINISTRATOR GSA RESPONSIBLE FOR WORKMANSHIP APPROVAL FOR PUBLIC BUILDINGS
USC,40-609	ARCHITECT & ENGINEER SERVICES RE PUBLIC BUILDING CONSTRUCTION PROHIBITED ON PERMANENT BASIS
USC,40-609	RESPONSIBILITY ADMINISTRATOR GSA TO CERTIFY VOUCHERS RE PUBLIC BUILDING CONSTRUCTION
USC,40-609	RESPONSIBILITY ADMINISTRATOR GSA RE CONTRACT CHANGES FOR PUBLIC BUILDING CONSTRUCTION
USC,40-6C	RESPONSIBILITY ADMINISTRATOR GSA FOR FINAL SETTLEMENT OF CONTRACTS RE PUBLIC BUILDING CONSTRUCTION
USC,40-611	PUBLIC BUILDING CONSTRUCTION SHALL BE PER COMPARATIVE URGENCY FOR NEED
USC,40-612	DEFINITION OF PUBLIC BUILDING RE PUBLIC BUILDING CONSTRUCTION
USC,40-613	EXEMPTION OF CERTAIN PUBLIC BUILDING PROJECTS FROM CHAPTER 12 OF TITLE 40 TO USC.
USC,40-614	ADMINISTRATOR GSA MAY DELEGATE CERTAIN AUTHORITIES RE PUBLIC BUILDING CONSTRUCTION
USC,40-68	RESTRICTION ON ERECTION OF BUILDINGS STRUCTURES IN DC WITHOUT EXPRESS AUTHORITY OF CONGRESS
USC,40-701	SPECIFICATIONS FOR SAFETY DEVICES RE ACQUISITION OF MOTOR VEHICLES
USC,40-702	ADMINISTRATOR GSA SHALL PRESCRIBE SAFETY STANDARDS RE ACQUISITION OF MOTOR VEHICLES
USC,40-703	DEFINITION OF MOTOR VEHICLE RE SAFETY STANDARDS
USC,40-71A	AUTHORITY NATIONAL CAPITAL PLANNING COMM TO CONTRACT FOR ARCHITECT & ENGINEERING SERVICES
USC,40-71A	AUTHORITY NATIONAL CAPITAL PLANNING COMM TO CONTRACT FOR SERVICES WITHOUT REGARD TO USC 41-5
USC,40-71A	NATIONAL CAPITAL PLANNING COMM DESIGNATED AS CENTRAL PLANNING AGENCY FOR CAPITAL DEVELOPMENT
USC,40-71C	AUTHORITY NATIONAL CAPITAL PLANNING COMM TO ENTER INTO AGREEMENTS WITH PLANNING AGENCIES
USC,40-71C	CONTRACTING FOR ARCHITECT & ENGINEERING SERVICES WITHOUT REGARD TO USC 41-5
USC,40-71D	DOD EXEMPTION FROM SUBMITTAL OF PLANS FOR NATIONAL CAPITAL CONSTRUCTION DURING NATIONAL EMERGENCY
USC,40-71D	DOD EXEMPTION FROM SUBMITTAL OF PLANS FOR NATIONAL CAPITAL CONSTRUCTION PROJECTS DURING WARTIME
USC,40-71D	FEDERAL & DC AGENCIES SHALL SUBMIT PLANS TO NATIONAL CAPITAL PLANNING COMM UPON CAPITAL REQUEST
USC,40-71D	FEDERAL & DC AGENCIES TO CONSULT WITH NATIONAL CAPITAL PLANNING COMM RE CAPITAL CONSTRUCTION
USC,40-71D	NATIONAL CAPITAL PLANNING COMM SHALL SUBMIT PLANS TO FEDERAL & DC AGENCIES UPON CAPITAL REQUEST
USC,40-71D	NATIONAL CAPITAL PLANNING COMM TO PROMPTLY REPORT TO AGENCY RE CAPITAL CONSTRUCTION PLANS
USC,40-71D	SUBMITTAL OF PLANS FOR LAND ACQUISITION IN NATIONAL CAPITAL TO NATIONAL CAPITAL PLANNING COMM
USC,40-71F	NATIONAL CAPITAL PLANNING COMM SHALL RECOMMEND 6-YEAR PUBLIC WORKS PROGRAM FOR NATIONAL CAPITAL
USC,40-71F	6-YEAR PUBLIC WORKS PROGRAM FOR NATIONAL CAPITAL IS REVIEWED ANNUALLY BY NATIONAL PLANNING COMM
USC,40-72A	ACQUISITION OF LAND SUBJECT TO LIMITED RIGHTS BY NATIONAL PLANNING COMM RE PRESIDENTIAL APPROVAL
USC,40-72D	AUTHORITY OF DISTRICT-OF-COLUMBIA COMMISSIONERS TO PAY NECESSARY EXPENSES FOR SALE OF LAND
USC,40-726	PROHIBITION ON PURCHASE OF INSURANCE FOR SHIPMENT OF VALUABLES UNLESS AUTHORIZED BY SEC TREASURY
USC,40-72	AUTHORITY OF NATIONAL PLANNING COMM TO ACQUIRE LAND IN DC AND VA BY CONDEMNATION
USC,40-72	AUTHORITY OF NATIONAL PLANNING COMM TO ACQUIRE LAND IN DC AND VA BY PURCHASE AT REASONABLE PRICE
USC,40-72	CONTRACT FOR PURCHASE OF LAND BY NATIONAL CAPITAL PLANNING COMM SUBJECT TO PRESIDENTIAL APPROVAL
USC,40-72	NATIONAL CAPITAL PLANNING COMM ACQUISITION OF LAND BY CONDEMNATION SUBJECT TO PRESIDENTS APPROVAL
USC,40-72	NATIONAL CAPITAL PLANNING COMM TO SEEK COMM FINE ARTS ADVICE RE ACQUISITION OF DC AND VA LAND
USC,40-73	FISCAL LAW RE APPROPRIATION FOR EXPENSES & LAND ACQUISITION RE NATIONAL CAPITOL PLANNING COMM
USC,40-74C	AUTHORITY SEC INTERIOR TO PAY EXPENSES RE SALE OF CERTAIN LAND IN D.C.
USC,40-74	ANNUAL REPORT TO CONGRESS BY NATIONAL CAPITAL PLANNING COMMISSION RE LAND ACQUISITION
USC,40-74	ANNUAL REPORT TO OMB BY NATIONAL CAPITAL PLANNING COMM RE APPROPRIATIONS FOR CERTAIN FUNCTIONS
USC,40-751	ESTABLISHMENT OF GSA
USC,40-752	TRANSFER OF FUNCTIONS TO GSA RE BUREAU OF FEDERAL SUPPLY, DEPT OF TREASURY
USC,40-752	TRANSFER OF FUNCTIONS TO GSA RE OFFICE OF CONTRACT SETTLEMENT, DEPT TO TREASURY
USC,40-753	TRANSFER OF FUNCTIONS TO GSA RE FEDERAL WORKS AGENCY
USC,40-755	FISCAL LAW RE TRANSFER OF CERTAIN FUNDS TO GSA
USC,40-756	ANNUAL AUDIT BY COMP GEN RE GENERAL SUPPLY FUND & REPORT TO CONGRESS
USC,40-756	CONDUCT OF TESTS RE CONFORMITY TO PRESCRIBED SPECIFICATIONS RE COMMODITIES FOR SALE TO GSA
USC,40-756	CREDITS TO GENERAL SUPPLY FUND
USC,40-756	FISCAL LAW RE CREATION OF GENERAL SUPPLY FUND UNDER CONTROL OF ADMINISTRATOR GSA
USC,40-756	PAYMENTS BY REQUISITIONING AGENCY RE GENERAL SUPPLY FUND
USC,40-756	USES OF GENERAL SUPPLY FUND
USC,40-757	AVAILABILITY OF FUNDS OF GOODS & SERVICES RE FEDERAL TELECOMMUNICATIONS SYSTEM
USC,40-757	FISCAL LAW RE FEDERAL TELECOMMUNICATIONS FUND FOR OPERATION OF TELECOMMUNICATIONS SYSTEM
USC,40-757	STATES TO OBTAIN TITLE TO CERTAIN LAND INTERESTS RE U.S. [illegible] PROJECTS
USC,40-756(B)	ADMINISTRATOR GSA MAY CONTRACT FOR STENOGRAPHIC REPORTING SERVICES
USC,40-758(B)	ADMINISTRATOR GSA MAY EMPLOY EXPERTS & CONSULTANTS BY CONTRACT
USC,40-759	ADMINISTRATOR GSA MAY COORDINATE PROCUREMENT OF ADPE INCLUDING MAINTENANCE & REPAIR
USC,40-759	FISCAL LAW RE CREATION OF AUTOMATIC DATA PROCESSING FUND
USC,40-759	FISCAL LAW RE CREATION OF AUTOMATIC DATA PROCESSING FUND
USC,40-759	INAPPLICABILITY OF CERTAIN PORTIONS OF [illegible] TO PROCUREMENT OF ADPE
USC,40-759	INAPPLICABILITY OF CERTAIN PORTIONS OF [illegible] TO [illegible] OF ADPE
40 759	LIMITATION OF AUTHORITY SEC COMMERCE & ADMINISTRATOR GSA RE ADPE [illegible]
40 759	NOTIFICATION TO AGENCIES RE GSA DETERMINATIONS AFFECTING ADPE IN USE

KEYWORD	
USC.40-759	SEC COMMERCE & ADMINISTRATOR GSA MAY ESTABLISH ADPE PROCESSING STANDARDS
USC.40-801	SEC INTERIOR MAY NEGOTIATE AGREEMENTS RE NATIONAL VISITOR CENTER
USC.40-802	TERMS & CONDITIONS OF LEASES & AGREEMENTS RE NATIONAL VISITOR CENTER
USC.40-803	CONDITIONS FOR ADMINISTRATION OF PROPERTY RE NATIONAL VISITOR CENTER
USC.40-804	TRANSFER OF PROPERTY FOR PARKING FACILITY CONSTRUCTION RE NATIONAL VISITOR CENTER
USC.40-805	ANNUAL REPORT TO CONGRESS BY SEC INTERIOR RE NATIONAL VISITOR CENTER
USC.40-808	APPLICATION DAVIS-BACON ACT TO CERTAIN CONSTRUCTION PROJECTS RE NATIONAL VISITOR CENTER
USC.40-821	ESTABLISHMENT OF NATIONAL VISITOR FACILITIES ADVISORY COMMISSION TO REVIEW PLANS
USC.40-823	REPORT TO SEC INTERIOR BY NATIONAL VISITOR FACILITIES ADVISORY COMMISSION
USC.40-831	ARCHITECT OF CAPITOL MAY MAKE AGREEMENTS TO OPERATE CAPITOL VISITOR CENTER
USC.40-851(D)	AUTHORITY CAPITOL GUIDE BOARD TO PROCURE UNIFORMS FOR PERSONNEL
USC.40-910	ANNUAL REPORT TO CONGRESS BY ADMINISTRATOR GSA RE UNCOMPLETED PUBLIC BUILDING CONSTRUCTION
USC.40-	CERTAIN PARTS OF FPASA NOT APPLICABLE RE SELECTION & ACQUISITION OF REAL ESTATE FOR PUBLIC BUILDINGS
USC.4106B	USC.41-5 NOT APPLICABLE TO CERTAIN CONTRACTS RE MENOMINEE INDIAN RESERVATION
USC.4139	POWER SEC LABOR TO HOLD HEARINGS RE WALSH-HEALY ACT
USC.41-10A THROUGH 41-10D—	BUY AMERICAN ACT
USC.41-10A	NON APPLICABILITY OF BUY AMERICAN ACT TO ARTICLES MATERIAL OR SUPPLIES FOR USE OUTSIDE U.S.
USC.41-10A	NON APPLICABILITY OF BUY AMERICAN ACT WHEN ARTICLES MATERIAL OR SUPPLIES NOT AVAILABLE IN U.S.
USC.41-10A	ONLY ARTICLES MATERIALS OR SUPPLIES MINED PRODUCED OR MANUFACTURED IN U.S. ACQUIRED FOR PUBLIC
USC.41-10B	AUTHORITY AGENCY HEAD TO BLACKLIST CONSTRUCTION CONTRACTORS RE NONCOMPLIANCE BUY AMERICAN ACT
USC.41-10B	ONLY ARTICLES MATERIALS OR SUPPLIES MINED, PRODUCED OR MANUFACTURED IN U.S. USED IN CONSTRUCTION
USC.41-10C	DEFINITION PUBLIC BUILDING RE BUY AMERICAN ACT
USC.41-10C	DEFINITION PUBLIC USE RE BUY AMERICAN ACT
USC.41-10C	DEFINITION PUBLIC WORK RE BUY AMERICAN ACT
USC.41-10C	DEFINITION UNITED STATES RE BUY AMERICAN ACT
USC.41-10D	AUTHORITY AGENCY HEAD TO WAIVE BUY AMERICAN ACT PROVISIONS WHEN COST IS UNREASONABLE
USC.41-10D	AUTHORITY AGENCY HEAD TO WAIVE BUY AMERICAN ACT PROVISIONS WHEN PURCHASE NOT IN PUBLIC INTEREST
USC.41-10D	CLARIFICATION OF CONGRESSIONAL INTENT RE BUY AMERICAN ACT
USC.41-101	DECLARATION OF POLICY TERMINATION OF WAR CONTRACTS RE CONTRACT SETTLEMENT ACT-1944
USC.41-102	SURVEILLANCE BY CONGRESS RE TERMINATION WAR CONTRACTS RE CONTRACT SETTLEMENT ACT-1944
USC.41-103	DEFINITIONS RE TERMINATION OF WAR CONTRACTS RE CONTRACT SETTLEMENT ACT-1944
USC.41-104	DUTIES GSA RE TERMINATION WAR CONTRACTS RE CONTRACT SETTLEMENT ACT-1944
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USC.41-105	DUTIES & COMPOSITION OF CONTRACT SETTLEMENT ADVISORY BOARD RE TERMINATION WAR CONTRACTS
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USC.41-106	BASIS FOR SETTLEMENT TERMINATION CLAIMS CONTRACT SETTLEMENT ACT-1944
USC.41-106	CONCLUSIVENESS OF TERMINATION SETTLEMENT RE CONTRACT SETTLEMENT ACT-1944
USC.41-106	CONTRACT AMENDMENTS RE TERMINATION CLAIMS RE CONTRACT SETTLEMENT ACT-1944
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USC.41-106	PRIORITY TO PRIVATE CONTRACTORS RE TERMINATION CLAIMS RE CONTRACT SETTLEMENT ACT-1944
USC.41-106	SETTLEMENT BY AGREEMENT RE TERMINATION CLAIMS RE CONTRACT SETTLEMENT ACT-1944
USC.41-107	SETTLEMENT SUBCONTRACTOR TERMINATION CLAIMS RE CONTRACT SETTLEMENT ACT-1944
USC.41-108	INTERIM FINANCING RE TERMINATION CLAIMS RE CONTRACT SETTLEMENT ACT-1944
USC.41-10	ADVANCE & PARTIAL PAYMENTS TO SUBCONTRACTORS RE TERMINATION CLAIMS RE CONTRACT SETTLEMENT ACT-1944
USC.41-110	LOAN GUARANTEES RE TERMINATION CLAIMS RE CONTRACT SETTLEMENT ACT-1944
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USC.41-112	REMOVAL & STORAGE OF MATERIALS RE TERMINATION UNDER CONTRACT SETTLEMENT ACT-1944
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USC.41-118	ADMINISTRATION OF TERMINATION SETTLEMENTS RE CONTRACT SETTLEMENT ACT-1944
USC.41-119	FRAUDULENT TERMINATION CLAIMS RE CONTRACT SETTLEMENT ACT-1944
USC.41-11	MIL DEPTS MAY CONTRACT FOR LIMITED CLOTHING NEEDS WITHOUT AUTHORIZATION OR APPROPRIATION
USC.41-11	MIL DEPTS MAY CONTRACT FOR LIMITED MEDICAL SUPPLIES WITHOUT AUTHORIZATION OR APPROPRIATION
USC.41-11	MIL DEPTS MAY CONTRACT FOR LIMITED SUBSISTANCE NEEDS WITHOUT AUTHORIZATION OR APPROPRIATION
USC.41-11	MIL DEPT MAY CONTRACT FOR LIMITED FORAGE NEEDS WITHOUT AUTHORIZATION OR APPROPRIATION
USC.41-11	MIL DEPT MAY CONTRACT FOR LIMITED FUEL NEEDS WITHOUT AUTHORIZATION OR APPROPRIATION
USC.41-11	MIL DEPT MAY CONTRACT FOR LIMITED HOSPITAL SUPPLIES WITHOUT AUTHORIZATION OR APPROPRIATION
USC.41-11	MIL DEPT MAY CONTRACT FOR LIMITED QUARTERS NEEDS WITHOUT AUTHORIZATION OR APPROPPIATION
USC.41-11	MIL DEPT MAY CONTRACT FOR LIMITED TRANSPORTATION NEEDS WITHOUT AUTHORIZATION OR APPROPRIATION
USC.41-11	PROHIBITION AGAINST CONTRACTING UNLESS AUTHORIZED BY LAW OR APPROPRIATION IS ADEQUATE
USC.41-11	REPORT TO CONGRESS BY SEC DEF RE PURCHASE OF CERTAIN ITEMS WITHOUT AUTHORIZATION OR APPROPRIATION
USC.41-120	CONTRACTING AGENCY POWERS & DUTIES RE TERMINATION CLAIMS UNDER CONTRACT SETTLEMENT ACT-1944
USC.41-121	DUTIES GSA RE TERMINATION CLAIMS UNDER CONTRACT SETTLEMENT ACT-1944
USC.41-122	USE OF APPROPRIATED FUNDS RE TERMINATION CLAIMS UNDER CONTRACT SETTLEMENT ACT-1944
USC.41-123	DELEGATION OF AUTHORITY BY GSA RE TERMINATION CLAIMS UNDER CONTRACT SETTLEMENT ACT-1944
USC.41-124	EFFECTIVE DATE CONTRACT SETTLEMENT ACT-1944
USC.41-125	EXEMPTION OF CERTAIN CONTRACTS OUTSIDE U.S. RE CONTRACT SETTLEMENT ACT-1944
USC.41-12	CONTRACTS FOR ANY PUBLIC IMPROVEMENT SHALL NOT EXCEED APPROPRIATIONS
USC.41-12	CONTRACTS FOR CONSTRUCTION REPAIR FURNISHING PUBLIC BUILDINGS SHALL NOT EXCEED APPROPRIATIONS
USC.41-13	CONTRACTS FOR STATIONARY & OTHER SUPPLIES MADE BY EXECUTIVE DEPTS CANNOT EXCEED 1 YEAR TERM
USC.41-15	ASSIGNEES RE ASSIGNMENT OF CONTRACT CLAIMS NOT LIABLE ON ACCOUNT OF CONTRACTOR INCURRED PENALTY
USC.41-15	ASSIGNEES RE ASSIGNMENT OF CONTRACT CLAIMS NOT LIABLE ON ACCOUNT OF CONTRACTOR TAXES
USC.41-15	ASSIGNEES RE ASSIGNMENT OF CONTRACT CLAIMS NOT LIABLE ON ACCOUNT OF RENEGOTIATION
USC.41-15	ASSIGNMENT OF CLAIMS UNDER GOVT CONTRACTS
USC.41-15	ASSIGNMENT TO FINANCIAL INSTITUTION OF MONIES DUE FROM U.S. UNDER CONTRACT NOT PROHIBITED
USC.41-15	CONTRACTS IN WAR OR NATIONAL EMERGENCY MAY PROHIBIT REDUCTION OR SET-OFF OR MONIES DUE ASSIGNEE
USC.41-15	LIMITATION OF LIABILITY TO ASSIGNEE RE CONTRACT CLAIMS ASSIGNMENT
USC.41-15	PROHIBITION AGAINST ASSIGNMENT OF CONTRACTS TO ANY OTHER PARTY

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KEYWORD	
USC,41-15	REDUCTION OF SET-OFF RE ASSIGNMENT OF CLAIMS UNDER GOVT CONTRACTS
USC,41-15	WRITTEN NOTICE & ASSIGNMENT INSTRUMENT MUST BE FILED WITH GOVT RE CLAIMS ASSIGNMENT
USC,41-1	AUTHORITY HEAD OF AGENCY TO WAIVE BUY AMERICAN ACT PROVISIONS FOR CONSTRUCTION RE UNREASONABLE COST
USC,41-1	FINANCIAL LIABILITY OF CONTRACTING OFFICER RE TERMINATION CLAIMS UNDER CONTRACT SETTLEMENT ACT-1944
USC,41-20	CONTRACTS CONNECTED WITH PUBLIC DEBT SETTLEMENT SHALL BE SENT TO COMP GEN
USC,41-20	CONTRACTS REQUIRING ADVANCE PAYMENTS SHALL BE SENT TO COMP GEN
USC,41-21	AGENCY HEADS TO MAKE RULES & REGULATIONS RE-EXAMINATION OF ACCOUNTS RE ADVANCE PAYMENTS
USC,41-22	CERTAIN DEPT AGRICULTURAL CONTRACTS NOT REQUIRED TO HAVE OFFICIALS-NOT-TO-BENEFIT PROVISION
USC,41-22	CONTRACTS SHALL CONTAIN EXPRESS PROVISION THAT NO MEMBER OF CONGRESS SHALL BENEFIT BY CONTRACT
USC,41-232(C)	PURCHASES & CONTRACTS UNDER FPASA MAY BE NEGOTIATED WHEN NOT OVER 2500
USC,41-23	TREATMENT OF OBLIGATIONS FOR ORDERS OR CONTRACTS PLACED WITH GOVT-OWNED ESTABLISHMENTS
USC,41-24	AWARD PROCEDURES RE TRANSPORTATION OF MONEYS BULLION COINS NOTES BONDS & OTHER SECURITIES
USC,41-251-NOTE	ESTABLISHMENT OF COMMISSION ON GOVERNMENT PROCUREMENT
USC,41-251	DECLARATION OF PURPOSE RE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT
USC,41-252(A)	APPLICABILITY OF USC 41-5 & USC 41-8 WHEN USC 41-251 THROUGH USC 41-260 INAPPLICABLE
USC,41-252(A)	PROCUREMENT PROCEDURES UNDER FPASA NOT APPLICABLE TO COASTGUARD
USC,41-252(A)	PROCUREMENT PROCEDURES UNDER FPASA NOT APPLICABLE TO DOD
USC,41-252(A)	PROCUREMENT PROCEDURES UNDER FPASA NOT APPLICABLE TO NASA
USC,41-252(B)	DECLARATION OF POLICY UNDER FPASA RE CONTRACTING WITH SMALL BUSINESS
USC,41-252(B)	REQUIREMENT FOR ADVANCE PUBLICITY RE NEGOTIATED CONTRACTS FOR MEDICINES OR MEDICAL PROPERTY
USC,41-252(B)	REQUIREMENT FOR ADVANCE PUBLICITY RE NEGOTIATED CONTRACTS FOR PROPERTY PURCHASED FOR RESALE
USC,41-252(C)	CONTRACTS UNDER FPASA MAY BE NEGOTIATED WHEN IN PUBLIC INTEREST DURING NATIONAL EMERGENCY
USC,41-252(C)	GENERAL RULE THAT PURCHASES & CONTRACTS FOR PROPERTY & SERVICES SHALL BE MADE BY ADVERTISING
USC,41-252(C)	NEGOTIATED CONTRACTS MADE UNDER FPASA SHALL COMPLY WITH USC 41-254
USC,41-252(C)	NEGOTIATED CONTRACTS UNDER FPASA FOR R&D SHALL BE REPORTED TO CONGRESS
USC,41-252(C)	PURCHASES & CONTRACTS UNDER FPASA MAY BE NEGOTIATED FOR MEDICINES & MEDICAL PROPERTY
USC,41-252(C)	PURCHASES & CONTRACTS UNDER FPASA MAY BE NEGOTIATED FOR NON PERISHABLE SUBSISTENCE SUPPLIES
USC,41-252(C)	PURCHASES & CONTRACTS UNDER FPASA MAY BE NEGOTIATED FOR PERISHABLE SUBSISTENCE SUPPLIES
USC,41-252(C)	PURCHASES & CONTRACTS UNDER FPASA MAY BE NEGOTIATED FOR PERSONAL & PROFESSIONAL SERVICES
USC,41-252(C)	PURCHASES & CONTRACTS UNDER FPASA MAY BE NEGOTIATED FOR PROPERTY PURCHASED FOR RESALE
USC,41-252(C)	PURCHASES & CONTRACTS UNDER FPASA MAY BE NEGOTIATED FOR RESEARCH & DEVELOPMENT WORK
USC,41-252(C)	PURCHASES & CONTRACTS UNDER FPASA MAY BE NEGOTIATED FOR SERVICES OF EDUCATIONAL INSTITUTION
USC,41-252(C)	PURCHASES & CONTRACTS UNDER FPASA MAY BE NEGOTIATED RE PUBLIC EXIGENCY
USC,41-252(C)	PURCHASES & CONTRACTS UNDER FPASA MAY BE NEGOTIATED TO ASSURE STANDARDIZATION & INTERCHANGE
USC,41-252(C)	PURCHASES & CONTRACTS UNDER FPASA MAY BE NEGOTIATED WHEN AUTHORIZED BY LAW
USC,41-252(C)	PURCHASES & CONTRACTS UNDER FPASA MAY BE NEGOTIATED WHEN BID PRICES NOT REASONABLE
USC,41-252(C)	PURCHASES & CONTRACTS UNDER FPASA MAY BE NEGOTIATED WHEN IMPRACTICABLE TO SECURE COMPETITION
USC,41-252(C)	PURCHASES & CONTRACTS UNDER FPASA MAY BE NEGOTIATED WHEN ITEMS PROCURED & USED OUTSIDE U.S.
USC,41-252(C)	PURCHASES & CONTRACTS UNDER FPASA MAY BE NEGOTIATED WHEN IF PUBLIC DISCLOSURE SHOULDNT BE MADE
USC,41-252(D)	BIDS RECEIVED UNDER FPASA SHALL BE REFERRED TO ATTY GEN RE ANTI-TRUST VIOLATIONS
USC,41-252(E)	AUTHORITY TO NEGOTIATE CONTRACTS FOR CONSTRUCTION OR REPAIR OF BUILDINGS ETC UNDER FPASA
USC,41-252(E)	AUTHORITY TO NEGOTIATE CONTRACTS FOR CONSTRUCTION OR REPAIR OF SEWERS & MAINS UNDER FPASA
USC,41-252(E)	CONSTRUCTION OF PUBLIC BUILDINGS & IMPROVEMENTS NOT AUTHORIZED BY THIS SECTION
USC,41-252(F)	CONTRACTS FOR CARRIAGE OF GOVT PROPERTY SHALL NOT SPECIFY CONTAINER DIMENSIONS
USC,41-253	ADVERTISED BIDS FOR PURCHASES OR CONTRACTS UNDER FPASA SHALL BE PUBLICALLY OPENED
USC,41-253	BASIS FOR CONTRACT AWARDS UNDER ADVERTISING REQUIREMENTS OF FPASA
USC,41-253	NO ADVERTISEMENT OR INVITATION FOR BID UNDER FPASA SHALL SPECIFY CONTAINER DIMENSIONS
USC,41-253	ONLY IF CONTAINERS ARE GOVT OWNED SHALL ADVERTISEMENT FOR BID ALLOW CONTAINER DIMENSIONS
USC,41-253	REQUIREMENTS FOR ADVERTISING FOR BIDS UNDER FPASA
USC,41-253	SPECIFICATIONS & INVITATIONS FOR BIDS UNDER FPASA SHALL PERMIT FULL & FREE COMPETITION
USC,41-253	WRITTEN NOTICE OF CONTRACT AWARD REQUIRED UNDER ADVERTISING REQUIREMENTS OF FPASA
USC,41-254A	REIMBURSEMENT OF INDIRECT COSTS UNDER FPASA RE COST CONTRACTS & GRANTS WITH EDUCATIONAL INSTL
USC,41-254(A)	WARRANTY AND OTHER REQUIREMENTS FOR NEGOTIATED CONTRACTS UNDER FPASA & CONTINGENT FEES
USC,41-254(B)	AGENCY HEAD DETERMINATION REQUIRED FOR COST & CPFF CONTRACTS UNDER FPASA
USC,41-254(B)	AGENCY HEAD DETERMINATION REQUIRED FOR INCENTIVE TYPE CONTRACT UNDER FPASA
USC,41-254(B)	ARCHITECT & ENGINEERING SERVICES FEE SHALL NOT EXCEED 6 PCT OF ESTIMATED COST UNDER FPASA
USC,41-254(B)	COST PLUS PCT OF COST CONTRACT TYPES PROHIBITED BY FPASA
USC,41-254(B)	FEE FOR CPFF CONTRACTS SHALL NOT EXCEED 10 PCT OF TOTAL COST UNDER FPASA
USC,41-254(B)	FEE FOR R&D CPFF CONTRACTS LIMITED TO 15 PCT OF TOTAL COST UNDER FPASA
USC,41-254(B)	NOTIFICATION BY CONTRACTOR UNDER FPASA COST CONTRACTS RE CERTAIN FIXED PRICE SUBCONTRACTS
USC,41-254(B)	NOTIFICATION BY CONTRACTOR UNDER FPASA COST CONTRACTS RE CPFF SUBCONTRACTS
USC,41-254(B)	PROCURING AGENCY UNDER FPASA HAS RIGHT TO AUDIT BOOKS & RECORDS OF COST SUBCONTRACTORS
USC,41-254(B)	RIGHT OF PROCURING AGENCY UNDER FPASA TO AUDIT BOOKS & RECORDS OF COST CONTRACTORS
USC,41-254(B)	RIGHT OF PROCURING AGENCY UNDER FPASA TO AUDIT BOOKS & RECORDS OF CPFF CONTRACTORS
USC,41-254(B)	RIGHT OF PROCURING AGENCY UNDER FPASA TO AUDIT BOOKS & RECORDS OF CPFF SUBCONTRACTOR
USC,41-254(C)	AUTHORITY COMP GEN TO AUDIT BOOKS & RECORDS OF CONTRACTORS WITH NEGOTIATED FPASA CONTRACTS
USC,41-254 *USC,41-252(C)*	NEGOTIATED CONTRACTS MADE UNDER FPASA SHALL COMPLY WITH
USC,41-255	CONDITIONS & RESTRICTIONS RE ADVANCE PROGRESS OR OTHER PAYMENTS UNDER FPASA CONTRACTS
USC,41-255	GOVT LIEN ON PROPERTY CONTRACTED FOR UNDER FPASA RE ADVANCE, PROGRESS PAYMENTS TO SMALL BUSINESS
USC,41-256A	WAIVER OF LIQUIDATED DAMAGES BY COMP GEN UNDER FPASA WHEN CONTRACT PROVIDES FOR DAMAGES
USC,41-257(A)	AGENCY HEAD MAY DELEGATE PROCUREMENT POWERS UNDER FPASA PROCEDURES & CERTAIN EXCEPTIONS
USC,41-257(A)	DETERMINATIONS & DECISIONS BY AGENCY HEAD UNDER FPASA RE PURCHASES & CONTRACTS ARE FINAL
USC,41-257(B)	DETERMINATIONS & DECISIONS RE CERTAIN NEGOTIATION AUTHORITY UNDER FPASA NOT DELEGABLE
USC,41-257(C)	DETERMINATIONS & DECISIONS RE CERTAIN NEGOTIATION AUTHORITY UNDER SHALL HAVE WRITTEN FINDINGS
USC,41-257(E)	WRITTEN FINDINGS ON DETERMINATIONS & DECISIONS RE NEGOTIATION UNDER FPASA SENT TO COMP GEN
USC,41-257(B)	PRESERVATION OF DATA BY AGENCY ON CERTAIN CONTRACTS NEGOTIATED UNDER FPASA
USC,41-258	APPLICABILITY DAVIS-BACON ACT TO NEGOTIATED CONTRACTS UNDER FPASA
USC,41-258	APPLICABILITY WALSH-HEALY ACT TO NEGOTIATED CONTRACTS UNDER FPASA
USC,41-258	CERTAIN LAWS APPLICABLE TO CONTRACTS & PURCHASES NEGOTIATED UNDER FPASA

KEYWORD	
USC.41-259	DEFINITION OF AGENCY HEAD RE FPASA
USC.41-260	APPLICABILITY OF USC 41-257 & USC 41-253 UNDER FPASA WHEN USC 41-5 INAPPLICABLE BY LAW
USC.41-260	NONAPPLICABILITY OF USC 41-13 TO CONTRACTS UNDER FPASA
USC.41-260	NONAPPLICABILITY OF USC 41-5 TO CONTRACTS UNDER FPASA
USC.41-260	NONAPPLICABILITY OF USC 41-8 TO CONTRACTS UNDER FPASA
USC.41-321	DECISION OF DEPT OR AGENCY HEAD RE CONTRACT FINAL UNLESS FRAUDULENT OR CAPRICIOUS ETC
USC.41-321	DECISION OF DEPT OR AGENCY HEAD RE CONTRACT FINAL UNLESS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE
USC.41-321	DECISION OF DEPT OR AGENCY HEAD RE CONTRACT FINAL UNLESS SO GROSSLY ERRONEOUS TO IMPLY BAD FAITH
USC.41-321	JUDICIAL REVIEW STANDARDS OF DECISIONS OF DEPT OR AGENCY HEAD RE CONTRACTS
USC.41-321	WUNDERLICH ACT ALSO USC.41-322
USC.41-322	USC.41-321 WUNDERLICH ACT ALSO
USC.41-322	PROHIBITION AGAINST CONTRACT PROVISION MAKING FINAL THE DECISION OF OFFICIAL ON QUESTION OF LAW
USC.41-351	CONTRACTORS MUST PAY PREVAILING WAGES RE SERVICE CONTRACT LABOR STANDARDS
USC.41-351	CONTRACT PROVISIONS REQUIRED SERVICE CONTRACT LABOR STANDARDS
USC.41-351	SERVICE-CONTRACT-ACT-OF-1965 CONTRACTOR OR SUBCONTRACTOR REQUIRED TO PAY MINIMUM WAGES
USC.41-351	SERVICE-CONTRACT-ACT-OF-1965 FRINGE BENEFIT PROVISION REQUIRED FOR CONTRACTS & SUBCONTRACTS
USC.41-351	SERVICE-CONTRACT-ACT-OF-1965 MINIMUM WAGE PROVISION REQUIRED FOR CONTRACTS & SUBCONTRACTS
USC.41-351	SERVICE-CONTRACT-ACT-OF-1965 NOTICE REQUIRED OF COMPENSATION BY CONTRACTORS TO SERVICE EMPLOYEES
USC.41-351	SERVICE-CONTRACT-ACT-OF-1965 CANCELLATION OF CONTRACT FOR VIOLATION OF PROVISIONS ACT
USC.41-352	SERVICE-CONTRACT-ACT-OF-1965 PENALTIES FOR VIOLATION OF PROVISIONS ACT
USC.41-352	SERVICE-CONTRACT-ACT-OF-1965 PENALTIES PROVIDED FOR VIOLATION OF MINIMUM WAGE PROVISIONS
USC.41-352	SERVICE-CONTRACT-ACT-OF-1965 AUTHORITY OF SEC LABOR TO ISSUE REGS RE ACT
USC.41-353	SERVICE-CONTRACT-ACT-OF-1965 BLACKLISTING OF VIOLATORS OF ACT
USC.41-354	SERVICE-CONTRACT-ACT-OF-1965 JUDICIAL ACTION AUTHORIZED RE VIOLATIONS OF ACT
USC.41-354	SERVICE-CONTRACT-ACT-OF-1965 JUDICIAL ACTION AUTHORIZED RE VIOLATIONS OF ACT
USC.41-355	EXCLUSION OF FRINGE BENEFITS IN DETERMINING OVERTIME PAY RE. SERVICE CONTRACT ACT
USC.41-355	SERVICE-CONTRACT-ACT-OF-1965 EXCLUDING FRINGE BENEFITS IN DETERMINING OVERTIME PAY
USC.41-356	SERVICE-CONTRACT-ACT-OF-1965 CERTAIN CLASSES-OF-CONTRACTS EXEMPT FROM ACT
USC.41-357	DEFINITION OF SERVICE EMPLOYEE, SECRETARY, COMPENSATION, UNITED STATES RE SERVICE CONTRACTS ACT
USC.41-357	SERVICE CONTRACTS ACT OF 1965 SEE SERVICE CONTRACTS ACT
USC.41-35	ET SEQ 40-276A, 40-324, ET SEQ— TREATMENT OF CERTAIN NEGOTIATED PROCUREMENTS AS ADVERTISED RE
USC.41-35	MAXIMUM HOURS REPRESENTATION RE WALSH-HEALY ACT
USC.41-35	MINIMUM AGE REPRESENTATION RE WALSH-HEALY ACT
USC.41-35	MINIMUM WAGE REPRESENTATION RE WALSH-HEALY ACT
USC.41-35	REGULAR DEALER REPRESENTATION RE WALSH-HEALY ACT
USC.41-35	SERVICE-CONTRACT-ACT-OF-1965 PROVISIONS RE WORKING CONDITIONS REQUIRED IN CONTRACTS & SUBCONTRACTS
USC.41-35	WORKING CONDITIONS REPRESENTATION RE WALSH-HEALY ACT
USC.41-36	GOVT RIGHT TO CANCEL CONTRACT RE BREACH OF REPRESENTATIONS WALSH HEALY ACT
USC.41-36	LIQUIDATED DAMAGES RE BREACH OF REPRESENTATIONS WALSH-HEALY ACT
USC.41-37	COMP GEN BLACK LIST RE NAMES OF PERSONS OR FIRMS BREACHING WALSH-HEALY ACT REPRESENTATIONS
USC.41-37	PROHIBITION AGAINST CONTRACTING IF WALSH-HEALY REPRESENTATIONS BROKEN & TIME PERIOD
USC.41-38	DUTIES OF SEC LABOR RE WALSH-HEALY ACT
USC.41-39	AUTHORITY SEC LABOR TO HOLD HEARINGS RE WALSH-HEALY ACT
USC.41-39	AUTHORITY SEC LABOR TO REQUIRE ATTENDANCE OF WITNESSES RE WALSH-HEALY ACT
USC.41-39	CONCLUSIVENESS OF FINDINGS OF SEC LABOR RE WALSH-HEALY ACT
USC.41-3	APPLICATION WALSH-HEALY ACT TO CONTRACTS FOR MANUFACTURE OR FURNISHING MATERIALS SUPPLIES EQUIPMENT
USC.41-40	AUTHORITY PRESIDENT TO SUSPEND REPRESENTATIONS REQUIRED UNDER WALSH-HEALY ACT
USC.41-40	AUTHORITY SEC LABOR TO MAKE EXCEPTIONS TO REPRESENTATIONS RE WALSH-HEALY ACT
USC.41-41	DEFINITION PERSON RE WALSH-HEALY ACT
USC.41-42	RELATIONSHIP WALSH-HEALY ACT TO BUY AMERICAN-ACT DAVIS-BACON ACT & CERTAIN OTHER ACTS
USC.41-43A	APPLICABILITY OF ADMINISTRATIVE PROCEDURES ACT TO CERTAIN PROVISIONS OF WALSH-HEALY ACT
USC.41-43A	RIGHT OF JUDICIAL REVIEW BY INTERESTED PERSON TO LEGAL QUESTIONS RE WALSH-HEALY ACT
USC.41-43	WALSH-HEALY ACT NOT APPLICABLE TO AGRICULTURAL COMMODITY CONTRACTS
USC.41-43	WALSH-HEALY ACT NOT APPLICABLE TO AGRICULTURAL OR FARM PRODUCTS
USC.41-43	WALSH-HEALY ACT NOT APPLICABLE TO CARRIAGE OF FREIGHT OR PERSONNEL UNDER TARIFF RATES
USC.41-43	WALSH-HEALY ACT NOT APPLICABLE TO COMMON CARRIERS SUBJECT TO COMMUNICATIONS ACT-1934
USC.41-43	WALSH-HEALY ACT NOT APPLICABLE TO OPEN MARKET PURCHASES
USC.41-43	WASH-HEALY ACT NOT APPLICABLE TO PURCHASE OF PERISHABLES
USC.41-44	SEVERABILITY OF PROVISIONS OF WALSH-HEALY ACT
USC.41-45	EFFECTIVE DATE OF WALSH-HEALY ACT
USC.41-45	LIMITED APPLICATION OF CONTRACTOR REPRESENTATION OF MINIMUM WAGES RE WALSH-HEALY ACT
USC.41-46-48B	GOVERNMENT PURCHASE OF HANDICAPPED MADE PRODUCTS
USC.41-46	CREATION & COMPOSITION OF COMMITTEE ON PURCHASES OF BLIND-MADE PRODUCTS
USC.41-47	DUTIES OF COMMITTEE ON PURCHASES OF BLIND-MADE PRODUCTS
USC.41-47	FAIR MARKET PRICE DETERMINATION MOPS BROOMS & OTHER COMMODITIES RE BLIND-MADE PRODUCTS
USC.41-47	RULES & REGULATIONS RE SPECIFICATIONS & DISTRIBUTION OF BLIND-MADE PRODUCTS
USC.41-48	PURCHASE OF BROOMS & MOPS SHALL BE BLIND-MADE PRODUCTS UNDER CERTAIN CIRCUMSTANCES
USC.41-49	EMPLOYMENT BY DEFENSE CONTRACTOR USE OF HONORABLE DISCHARGE CERTIFICATE FOR BIRTH CERTIFICATE
USC.41-5A	DEFINITION OF DEPARTMENT, GOVERNMENT, APPROPRIATION RE ADMINISTRATIVE EXPENSES ACT 1946
USC.41-50	DEFINITION OF DEFENSE CONTRACTOR RE EMPLOYMENT OF PERSONS WITHOUT BIRTH CERTIFICATE
USC.41-51	KICKBACKS MADE BY SUBCONTRACTORS NOT CHARGEABLE TO SUBCONTRACT OR PRIME CONTRACT
USC.41-51	KICKBACK FEES PAID BY CONTRACTOR OR GOVT RECOVERABLE BY SETOFF OR COURT ACTION
USC.41-51	PRIME CONTRACTOR MAY WITHHOLD PAYMENT OF KICKBACKS WHEN AGENCY OR COMP GEN DIRECTS
USC.41-51	PROHIBITION AGAINST KICKBACKS BY SUBCONTRACTORS TO CONTRACTORS RE NEGOTIATED CONTRACTS
USC.41-52	DEFINITION NEGOTIATED CONTRACTS RE KICKBACKS
USC.41-52	DEFINITION PERSON RE KICKBACKS
USC.41-52	DEFINITION SUBCONTRACTOR RE KICKBACKS
USC.41-53	COMP GEN AUTHORITY TO AUDIT BOOKS & RECORDS OF PRIME CONTRACTOR RE KICKBACKS
USC.41-53	COMP GEN AUTHORITY TO AUDIT BOOKS & RECORDS OF SUBCONTRACTOR RE KICKBACKS
USC.41-54	CIVIL & CRIMINAL PENALTIES RE KICKBACKS ON NEGOTIATED CONTRACTS

KEYWORD

USC.41-5 DOES NOT RENDER DAVIS-BACON INAPPLICABLE USC.40-276A-7 CONTRACT MADE WITHOUT REGARD TO
USC.41-5 FOR FLOOD INSURANCE USC.42-4081 SEC HUD MAY CONTRACT WITH INSURANCE COMPANIES WITHOUT REGARD TO
USC.41-5 NOT APPLICABLE TO ARCHITECT OF CAPITOL RE PURCHASE OF SUPPLIES ETC UNDER 2500 USC.41-6A-1
USC.41-5 NOT APPLICABLE TO CERTAIN CONTRACTS RE MENOMINEE INDIAN RESERVATION USC.416AB
USC.41-5 NOT APPLICABLE TO CERTAIN STENOGRAPHIC REPORTING SERVICES USC.41-6A
USC.41-5 NOT APPLICABLE TO DEPT STATE RE CERTAIN PACKING OF PERSONAL & HOUSEHOLD EFFECTS USC.41-6A
USC.41-5 NOT APPLICABLE TO MATERIAL & EQUIT RE INSECT, PEST, OR GRASS DISEASE CONTROL USC.41-6B
USC.41-5 NOT APPLICABLE TO SALE OF CERTAIN INDIAN PRODUCED ITEMS USC.41-6B
USC.41-5 USC.20-293H GRANTS & CONTRACTS RE UTILIZATION TALENT FOR HEALTH PROFESSIONS NOT SUBJECT TO
USC.41-5 USC.31-529 USC42-286D— DIRECTOR NATIONAL CANCER INSTITUTE MAY CONTRACT DISREGARDING
USC.41-5 USC.40-71A AUTHORITY NATIONAL CAPITAL PLANNING COMM TO CONTRACT FOR SERVICES WITHOUT REGARD TO
USC.41-5 USC.40-71C CONTRACTING FOR ARCHITECT & ENGINEERING SERVICES WITHOUT REGARD TO
USC.41-5 USC.41-6A NOT APPLICABLE TO CERTAIN LEASES OF AMERICAN BATTLE MONUMENTS COMMISSION
USC.41-5 USC.42-1592N CONTRACTS FOR DEFENSE HOUSING & COMMUNITY SERVICES ARE SUBJECT TO ADVERTISING RE
USC.41-5 USC.42-2630 SEC HEW MAY CONTRACT WITHOUT REGARD TO USC.31-529 &
USC.41-5 USC.42-4372 AUTHORITY DIRECTOR OFFICE ENVIRONMENTAL QUALITY TO CONTRACT WITHOUT REGARD TO
USC.41-5 USC.7-427I AGRICULTURAL RESEARCH CONTRACTS ARE EXEMPT FROM
USC.41-5 BASIC STATUTE REQUIRING ADVERTISING PRIOR TO CONTRACTING FORMERLY REVISED STATUTE 3709
USC.41-5 REVISED STATUTE 3709 APPLICABLE TO CERTAIN SALES & CONTRACTS OF SALE BY GOVT
USC.41-5 REVISED STATUTE 3709 NOT APPLICABLE WHEN AMOUNT DOES NOT EXCEED 2500
USC.41-5 REVISED STATUTE 3709 NOT APPLICABLE WHEN ONLY ONE SUPPLY SOURCE AVAILABLE
USC.41-5 REVISED STATUTE 3709 NOT APPLICABLE WHEN PERSONAL SERVICES REQUIRED
USC.41-5 REVISED STATUTE 3709 NOT APPLICABLE WHEN PUBLIC EXIGENCIES SO REQUIRE
USC.41-5 REVISED STATUTE 3709 ONLY APPLICABLE TO ADMINISTRATIVE TRANSACTIONS OF WHOLLY-OWNED GOVT CORP
USC.41-5 REVISED STATUTE 3709 REQUIRES ADVERTISING FOR PROPOSALS PRIOR TO CONTRACT FOR SUPPLIES & SERVICES
USC.41-5,6,6A,-13 TO DOD, COAST GUARD, & NASA USC.10-2314 INAPPLICABILITY OF
USC.41-6A-1 USC.41-5 NOT APPLICABLE TO ARCHITECT OF CAPITOL RE PURCHASE OF SUPPLIES ETC UNDER 2500
USC.41-6A NOT APPLICABLE TO CERTAIN LEASES OF AMERICAN BATTLE MONUMENTS COMMISSION USC.41-5
USC.41-6A USC.41-5 NOT APPLICABLE TO CERTAIN STENOGRAPHIC REPORTING SERVICES
USC.41-6A USC.41-5 NOT APPLICABLE TO DEPT STATE RE CERTAIN PACKING OF PERSONAL & HOUSEHOLD EFFECTS
USC.41-6B USC.41-5 NOT APPLICABLE TO MATERIAL & EQUIT RE INSECT, PEST, OF GRASS DISEASE CONTROL
USC.41-6B USC.41-5 NOT APPLICABLE TO SALE OF CERTAIN INDIAN PRODUCED ITEMS
USC.41-8 NOTIFICATION TO PARTIES SOLICITED FOR PROPOSALS REQUIRED CONCERNING TIME & PLACE OF BID OPENING
USC.41-8 PARTIES SOLICITED & ATTORNEYS REPRESENTING THEM MAY BE PRESENT AT BID OPENING
USC.41-8 RECORD OF EACH BID SHALL BE MADE AT TIME OF BID OPENING
USC.41,252(A) PROCUREMENT PROCEDURES UNDER FPASA SET FORTH IN USC 41-251THROUGH USC 41-260
USC.42-1201 FISCAL LAW RE GRANTS TO AID THE BLIND
USC.42-1310 FISCAL LAW RE RESEARCH AND DEMONSTRATION PROJECTS TO AID THE BLIND
USC.42-1351 FISCAL LAW RE GRANTS TO AID PERMANENTLY AND TOTALLY DISABLED
USC.42-1381 FISCAL LAW RE GRANTS TO AID AGED BLIND OR DISABLED & MEDICAL ASSISTANCE TO AGED
USC.42-1392 FISCAL LAW RE GRANTS TO COMBAT MENTAL RETARDATION
USC.42-1394 SEC HEW MAY MAKE ADVANCE PAYMENTS RE GRANTS TO COMBAT MENTAL RETARDATION
USC.42-1395KK SEC HEW MAY CONTRACT ON REIMBURSABLE BASIS CERTAIN INFORMATION RE HEALTH INSURANCE FOR AGED
USC.42-1395LL SEC HEW SHALL MAKE STUDIES & REPORT THEREON RE HEALTH CARE OF AGED
USC.42-1395U CARRIERS MUST MEET CERTAIN FINANCIAL RESPONSIBILITY RE HEALTH INSURANCE FOR AGED RE SEC HEW
USC.42-1395U CARRIER MUST BE FOUND FINANCIALLY RESPONSIBLE ETC PRIOR TO CONTRACT RE AGED HEALTH INSURANCE
USC.42-1395U CERTIFYING OFFICER NOT LIABLE UNLESS GROSS NEGLIGENCE OR INTENT TO DEFRAUD RE AGED HEALTH INS.
USC.42-1395U CONTRACTS WITH CARRIERS AT LEAST ONE YEAR & AUTOMATICALLY RENEWABLE
USC.42-1395U CONTRACTS WITH CARRIERS MUST HAVE CERTAIN PROVISIONS RE HEALTH INSURANCE FOR AGED
USC.42-1395U CONTRACT WITH CARRIER MAY REQUIRE SURETY BONDS RE HEALTH INSURANCE FOR AGED
USC.42-1395U DEFINITION OF CARRIER RE HEALTH INSURANCE FOR AGED
USC.42-1395U DISBURSING OFFICER NOT LIABLE UNLESS GROSS NEGLIGENCE OR INTENT TO DEFRAUD RE AGED HEALTH INS
USC.42-1395U SEC HEW MAY MAKE CONTRACTS WITH CARRIERS RE ADMINISTRATION OF HEALTH INSURANCE FOR AGED
USC.42-1395U SEC HEW MAY TERMINATE CONTRACT WITH CARRIER UNDER CERTAIN CONDITIONS RE AGED HEALTH INSURANCE
USC.42-1395 CONTRACTS WITH CARRIERS MAY BE MADE WITHOUT COMPETITIVE BIDDING RE HEALTH INSURANCE FOR AGED
USC.42-1396G FISCAL LAW RE GRANTS FOR TRAINING & INSTRUCTING ADMINISTRATORS OF NURSING HOMES
USC.42-1396 FISCAL LAW RE GRANTS FOR MEDICAL ASSISTANCE & REHABILITATION PROGRAMS FOR AGED
USC.42-1404 PRESIDENT MAY TRANSFER TO U.S. HOUSING AUTHORITY CONTRACTS RE HOUSING OR SLUM CLEARANCE
USC.42-1407 SEC HUD SHALL REPORT TO CONGRESS ON GRANTS & CONTRACTS MADE BY U.S. HOUSING AUTHORITY
USC.42-1411D EVERY CONTRACT OR GRANT FOR CONSTRUCTION SHALL REQUIRE SUBMISSION OF SPECIFICATIONS RE HOUSING
USC.42-1411 CAPITAL GRANTS FOR LOW RENT HOUSING OR SLUM CLEARANCE PROJECTS
USC.42-1436 ADVANCE & PROGRESS PAYMENTS ALLOWED RE GRANTS WITHOUT REGARD TO 31-529 RE LOW INCOME HOUSING
USC.42-1436 HOUSING & HOME FINANCE ADMINISTRATOR MAY CONTRACT FOR GRANTS RE LOW INCOME HOUSING
USC.42-1450 FISCAL LAW RE URBAN RENEWAL FUND
USC.42-1453 REGULATIONS RE GRANTS FOR URBAN RENEWAL PROJECTS
USC.42-1455 REQUIREMENTS FOR CAPITAL GRANT CONTRACTS RE SLUM CLEARANCE & URBAN RENEWAL
USC.42-1467 GRANTS RE DEMOLITION OF UNSAFE STRUCTURES
USC.42-1468A GRANTS TO ALLEVIATE HARMFUL CONDITIONS IN SLUMS & BLIGHTED AREAS
USC.42-1468A SEC HUD SHALL ENCOURAGE EMPLOYMENT OF UNEMPLOYED OR UNDER EMPLOYED RE GRANTS FOR BLIGHTED AREA
USC.42-1468 GRANTS FOR CODE ENFORCEMENT RE URBAN RENEWAL
USC.42-1476 AUTHORITY SEC HUD TO CONDUCT RESEARCH RE FARM HOUSING
USC.42-1478 AUTHORITY SEC HUD TO SPECIFY PLANS & SPECIFICATIONS FOR CONSTRUCTION OF FARM HOUSING
USC.42-1479 SEC AGRICULTURE MAY DETERMINE & PRESCRIBE STANDARDS OF FARM HOUSING & OTHER BUILDINGS
USC.42-1480 AUTHORITY SEC HUD TO DISPOSE OF FARM PROPERTY ACQUIRED AT FORECLOSURE SALE
USC.42-1480 AUTHORITY SEC HUD TO MODIFY CONTRACTS RE FARM HOUSING & FACILITIES
USC.42-1480 AUTHORITY SEC HUD TO PURCHASE FORECLOSED PROPERTY MORTGAGED TO SECURE FARM HOUSING
USC.42-1483 FISCAL LAW RE FARM HOUSING
USC.42-1484 AUTHORITY SEC HUD TO INSURE LOANS FOR HOUSING & FACILITIES FOR DOMESTIC FARM LABOR
USC.42-1484 INSURANCE CONTRACT EXECUTED BY SEC HUD IS INCONTESTABLE EXCEPT FOR FRAUD OR MISREPRESENTATION

KEYWORD	
USC,42-1486	AUTHORITY SEC HUD TO PRESCRIBE CONDITIONS OF CONTRACT ASSISTANCE FOR DOMESTIC FARM LABOR HOUSING
USC,42-1486	EMPLOYEES WORKING ON HOUSING FOR DOMESTIC FARM LABOR MUST BE PAID PREVAILING WAGES
USC,42-1490C	FISCAL LAW RE GRANTS OR CONTRACTS FOR MUTUAL SELF HELP HOUSING
USC,42-1490C	REGULATIONS RE GRANTS FOR MUTUAL SELF HELP HOUSING
USC,42-1490C	SEC HUD MAY MAKE GRANTS OR CONTRACTS RE DEVELOPING & CONDUCTING SELF HELP HOUSING PROGRAMS
USC,42-1491A	CONSTRUCTION IN CRITICAL DEFENSE HOUSING AREA BY GOVT ONLY IF PRIVATE ENTERPRISE UNINTERESTED
USC,42-1492	AUTHORITY SEC HUD TO MAKE GRANTS TO PUBLIC ENTITIES TO HELP ACCELERATE PUBLIC WORKS
USC,42-1492	AUTHORITY SEC HUD TO PURCHASE SECURITIES OR OBLIGATIONS TO HELP PUBLIC ENTITIES & INDIAN TRIBES
USC,42-1497	AUTHORITY SEC HUD TO ESTABLISH TECHNICAL ADVISORY SERVICE TO ASSIST STATES RE COMMUNITY FACIL
USC,42-1500A	AUTHORITY SEC HUD TO MAKE GRANTS FOR PRESERVATION & DEVELOPMENT OF OPEN SPACE LAND
USC,42-1500A	FISCAL LAW RE GRANTS FOR PRESERVATION & DEVELOPMENT OF OPEN SPACE LAND
USC,42-1500B	SEC HUD MAY MAKE GRANTS OR CONTRACTS RE DEVELOPING OPEN SPACE LAND
USC,42-1500C-1	AUTHORITY SEC HUD TO MAKE GRANTS FOR OPEN SPACE LAND IN BUILT UP URBAN AREAS
USC,42-1500C-2	AUTHORITY SEC HUD TO MAKE GRANTS FOR BEAUTIFICATION & IMPROVEMENT OF LANDS IN URBAN AREAS
USC,42-1500C-3	EMPLOYEES ON PROJECTS FINANCED WITH GRANTS FOR URBAN BEAUTIFICATION PAID PREVAILING WAGE
USC,42-1500D-1	AUTHORITY SEC HUD TO MAKE GRANTS FOR HISTORIC PRESERVATION IN URBAN AREAS
USC,42-1500D	AUTHORITY SEC HUD TO CONTRACT FOR STUDIES ON OPEN SPACE LAND
USC,42-1500D	URBAN BEAUTIFICATION & PRESERVATION GRANTS
USC,42-1502	AUTHORITY DEPT DEFENSE TO ACQUIRE PROPERTY FOR DEFENSE HOUSING PROJECTS
USC,42-1502	AUTHORITY HOUSING & HOME FINANCE ADMINISTRATION TO ACQUIRE LAND FOR NATIONAL DEFENSE
USC,42-1503	AUTHORITY HOME FINANCE ADMINISTRATION TO DEVELOPE HOUSING WHERE SHORTAGE IMPEDES NAT DEFENSE
USC,42-1506	AUTHORITY AGENCY TO CONTRACT WITH PURCHASES TO DEFENSE HOUSING FOR ADMINISTRATION OF UTILITIES
USC,42-1521	AUTHORITY HOME FINANCE ADMINISTRATOR TO CONSTRUCT HOUSING WITHOUT REGARD TO CERTAIN LAWS
USC,42-1521	AUTHORITY HOUSING & HOME FINANCE ADMINISTRATOR TO ACQUIRE PROPERTY WITHOUT ADVERTISING
USC,42-1522	AUTHORITY HOME FINANCE ADMINISTRATOR TO BRING ACTION IN STATE COURT TO RECOVER PROPERTY
USC,42-1523	FISCAL LAW RE DEFENSE HOUSING
USC,42-1524	AUTHORITY HOUSING & HOME FINACE ADMINISTRATOR TO DISPOSE OF DEFENSE HOUSING
USC,42-1532	AUTHORITY HOME FINANCE ADMINISTRATOR TO CONTRACT FOR CONSTRUCTION OF WORKS RE CERTAIN LAWS
USC,42-1532	AUTHORITY HOME FINANCE ADMINISTRATOR TO MAKE GRANTS FOR DEFENSE PUBLIC WORKS & EQMT
USC,42-1532	AUTHORITY HOME FINANCE ADMINISTRATOR TO ACQUIRE PROPERTY WITHOUT ADVERTISING FOR PUBLIC WORKS
USC,42-1533	AGENCY WILL NOT PERMIT INTERFERENCE IN SUPERVISION OF HOSPITALS BUILT UNDER PUBLIC DEFENSE
USC,42-1533	FIXED-FEE IN CPFF CONTRACT FOR DEFENSE PUBLIC WORKS MAY NOT EXCEED 6 PCT OF ESTIMATED COST
USC,42-1533	NO CONTRACTS FOR DEFENSE PUBLIC WORKS PERMITTED ON A COST-PLUS-A-PCT-OF-COST BASIS
USC,42-1533	NO INTERFERENCE PERMITTED BY AGENCY IN SUPERVISION OF SCHOOLS BUILT UNDER PUBLIC DEFENSE WORK
USC,42-1534	FISCAL LAW RE DEFENSE PUBLIC WORKS
USC,42-1549	EMPLOYEES ON DEFENSE HOUSING PROJECTS MUST BE PAID AT LEAST THE PREVAILING WAGE PLUS OVERTIME
USC,42-1553	AUTHORITY HOUSING & HOME FINANCE ADMINISTRATOR TO REMOVE TEMPORARY WAR HOUSING & EXCEPTION
USC,42-1553	HOUSING & HOME FINANCE ADMINISTRATOR MUST REPORT TO CONGRESS ON TEMPORARY WAR HOUSING
USC,42-1561	FISCAL LAW RE WAR HOUSING FOR U.S. EMPLOYEES IN & NEAR DISTRICT OF COLOMBIA
USC,42-1562	FISCAL LAW RE PUBLIC WORKS IN & NEAR DISTRICT OF COLOMBIA
USC,42-1563	AUTHORITY ADMINISTRATOR OF GSA TO MAKE ADVANCEMENTS TO DISTRICT OF COLOMBIA FOR WORKS & EQMT
USC,42-1563	DEFENSE PUBLIC WORKS REPORT TO CONGRESS BY COMMISSIONERS OF DISTRICT OF COLOMBIA
USC,42-1571	HOME FINANCE ADMINISTRATOR MAY CONSTRUCT TEMPORARY HOUSING FOR SERVICEMEN & VETERANS
USC,42-1572	CERTAIN TEMPORARY WAR HOUSING EXEMPT FROM REMOVAL REQUIREMENTS
USC,42-1584	AUTHORITY HOUSING & HOME FINANCE ADMINISTRATOR TO REMOVE WAR HOUSING ON LAND UNDER HIS CONTROL
USC,42-1585	AUTHORITY HOUSING & HOME FINANCE ADMINISTRATOR TO ACQUIRE & SELL LAND RE WAR HOUSING
USC,42-1586	AUTHORITY HOUSING & HOME FINANCE ADMINISTRATOR TO CONVEY CERTAIN LOW-RENT HOUSING PROJECTS
USC,42-1587	AUTHORITY HOUSING & HOME FINANCE ADMINISTRATOR TO DISPOSE OF PERMANENT WAR HOUSING
USC,42-1587	VETERAN PREFERENCE GIVEN IN PURCHASE OF WAR HOUSING
USC,42-1588	AUTHORITY TO SELL PERSONAL PROPERTY TO LOCAL HOUSING AUTHORITIES RE WAR HOUSING
USC,42-1588	AUTHORITY TO SELL VACANT LAND TO LOCAL HOUSING AUTHORITIES RE WAR HOUSING
USC,42-1589A	AUTHORITY PRESIDENT TO EXTEND TIME REQUIREMENTS OF CONTRACTS FOR DISPOSAL OF WAR HOUSING
USC,42-1589C	AUTHORITY HOUSING & HOME FINACCE ADMINISTRATON TO CONVEY TO CERTAIN [illegible] - WAR HOUSING
USC,42-1589C	WAR HOUSING IN SAN DIEGO AREA
USC,42-1589D	AUTHORITY HOUSING & HOME FINANCE ADMINISTRATOR TO DETERMINE EXTENT OF ADVERTISING FOR SALES
USC,42-1589D	AUTHORITY HOUSING & HOME FINANCE ADMINISTRATOR TO DISPOSE OF WAR HOUSING BY NEGOTIATION
USC,42-1589D	AUTHORITY HOUSING & HOME FINANCE ADMINISTRATOR TO REJECT BID FOR WAR HOUSING
USC,42-1589D	AUTHORITY HOUSING & HOME FINANCE ADMINISTRATOR TO SELL UNDISPOSED LAND TO HIGHEST RESP. BIDDER
USC,42-1589D	CONTRACTS FOR SALE OF PERMANENT WAR HOUSING MUST PROVIDE THAT TITLE PASSES BY 1 APR 1957
USC,42-1589	AUTHORITY HOUSING & HOME FINANCE ADMINISTRATOR TO CONVEY LAND & STRUCTURES TO NATIONAL GUARD
USC,42-1591A	CERTAIN RESIDENTIAL CREDIT RESTRICTIONS UNDER DEFENSE PRODUCTION ACT SUSPENDED RE HOUSING
USC,42-1591A	PUBLIC ANNOUNCEMENT OF DESCRIPTION OF HOUSING TO BE BUILT IN CRITICAL DEFENSE HOUSING AREA
USC,42-1591B	ACTION TO ASSURE COMMUNITY FACILITIES & SERVICES PROVIDED BY LOCAL AGENCIES RE NATIONAL DEFENSE
USC,42-1591B	PROHIBITION AGAINST GRANTS FOR COMMUNITY FACILITIES & SERVICES ASSOCIATED WITH NATIONAL DEFENSE
USC,42-1591C	EXPIRATION DATE FOR CONSTRUCTION OF DEFENSE HOUSING & COMMUNITY FACILITIES
USC,42-1591	CERTAIN ACTION REQUIRED TO INSURE PRIVATE ENTERPRISE OPPORTUNITY TO PROVIDE CRITICAL HOUSING
USC,42-1591	PRESIDENT MUST DETERMINE AREA AS CRITICAL DEFENSE HOUSING AREA BEFORE CONSTRUCTION ALLOWED
USC,42-1592A	AUTHORITY TO SELL TEMPORARY DEFENSE HOUSING TO HIGHEST RESPONSIBLE BIDDER AFTER ADVERTISING
USC,42-1592A	PERMANENT DEFENSE HOUSING SHALL BE SOLD AS EXPEDITIOUSLY AS POSSIBLE
USC,42-1592A	VETERANS PREFERENCE GIVEN TO PURCHASE OF CERTAIN PERMANENT DEFENSE HOUSING
USC,42-1592B	LIMITATIONS ON MAXIMUM CONSTRUCTION COSTS OF DEFENSE HOUSING
USC,42-1592C	AUTHORITY HOUSING & HOME FINANCE TO MAKE GRANTS FOR DEFENSE RELATED COMMUNITY FACILITIES
USC,42-1592D	AUTHORITY HOME FINANCE ADMINISTRATOR TO PROCURE MATERIALS & EQMT FOR DEFENSE HOUSING
USC,42-1592D	AUTHORITY HOUSING & HOME FINANCE ADMINISTRATOR TO CONTRACT FOR SURVEYS RE DEFENSE HOUSING
USC,42-1592D	AUTHORITY HOUSING & HOME FINANCE ADMINISTRATOR TO SETTLE CERTAIN CLAIMS
USC,42-1592D	AUTHORITY HOUSING & HOME FINANCE TO ACQUIRE PROPERTY RE DEFENSE HOUSING & COMMUNITY FACILITIES
USC,42-1592D	AUTHORITY HOUSING & HOME FINANCE TO RETURN TO ORIGINAL OWNER UNUSED REAL PROPERTY
USC,42-1592H	CONTRACTS FOR DEFENSE HOUSING & COMMUNITY SERVICES ARE SUBJECT TO ADVERTISING RE USC 41-5
USC,42-1592H	FIXED FEE ON CPFF CONTRACT FOR DEFENSE HOUSING & COMMUNITY FACILITIES LIMITED TO 6 PCT

KEYWORD	
USC,42-1592H	PROHIBITION AGAINST COST PLUS PCT OF COST CONTRACT-TYPE RE DEFENSE HOUSING & COMMUNITY FACIL
USC,42-1592I	CONTRACTS FOR GRANTS MUST PROVIDE THAT PREVAILING WAGES PAID ON DEFENSE HOUSING
USC,42-1592I	EMPLOYEE WAGES ON DEFENSE HOUSING PROJECTS ARE COMPUTED ON 8 HR DAY WITH OVERTIME AT 1 1/2
USC,42-1592I	REPORTS TO SEC LABOR BY CONTRACTORS REQUIRED RE DEFENSE HOUSING & COMMUNITY FACILITIES
USC,42-1592L	FISCAL LAW RE DEFENSE HOUSING & COMMUNITY FACILITIES
USC,42-1592	AUTHORITY HOUSING & HOME ADMINISTRATOR TO PROVIDE HOUSING & COMMUNITY SERVICES IN CRITICAL AREA
USC,42-1594A	ARMED SERVICES MORTGAGE INSURANCE FUND
USC,42-1594A	EFFORT TO NEGOTIATE BEFORE INITIATION OF CONDEMNATION PROCEDURES RE MILITARY HOUSING
USC,42-1594C	AUTHORITY SEC DEF TO PROCURE SERVICES OF A/E RE HOUSING FOR MILITARY PERSONNEL
USC,42-1594F	MAXIMUM LIMITATION ON FLOOR AREA RE HOUSING FOR MILITARY PERSONNEL
USC,42-1594H-1	AUTHORITY SEC DEF TO MAKE LIMITED IMPROVEMENTS ON HOUSING USED BY MILITARY PERSONNEL
USC,42-1594H	AUTHORITY SEC ARMY TO PURCHASE LIMITED NUMBER OF HOUSING & LAND FOR MILITARY PERSONNEL
USC,42-1594I	LIMITATIONS ON NUMBER OF FAMILY HOUSING UNITS CONSTRUCTED FOR MILITARY PERSONNEL
USC,42-1594I	SPECIFIC AUTHORIZATION NECESSARY FOR CONSTRUCTION OF FAMILY HOUSING FOR MILITARY PERSONNEL
USC,42-1594J	AUTHORITY SECRETARIES OF DEPTS TO LEASE INADEQUATE HOUSING FOR MILITARY PERSONNEL
USC,42-1594J	INADEQUATE HOUSING UNITS MUST BE IMPROVED TO QUALIFY FOR PUBLIC QUARTERS OR BE DEMOLISHED
USC,42-1594K	AUTHORITY SEC DEF TO GUARANTEE BUILDERS OF HOUSING IN FOREIGN COUNTRIES CERTAIN RENTAL RETURNS
USC,42-1594	AUTHORITY SEC DEF TO CONTRACT WITH ELIGIBLE BIDDER FOR CONSTRUCTION OF HOUSING FOR MILITARY
USC,42-1594	SEC DEF MUST REPORT TO CONGRESS ON USE OF TITLE SEARCH & INSURANCE FOR MILITARY HOUSING
USC,42-1651	AUTHORITY C.O. TO MODIFY CERTAIN CONTRACTS TO PROVIDE FOR WORKMANS COMPENSATION
USC,42-1651	LIABILITY UNDER LONG SHOREMEN'S & HARBOR WORKERS COMPENSATION ACT EXCLUSIVE FOR CERTAIN CONTR.
USC,42-1651	LONG SHOREMEN'S & HARBOR WORKERS COMPENSATION ACT APPLIES TO EMPLOYEES ON PUBLIC WORKS
USC,42-1701	CERTAIN COMPENSATION PROVIDED FOR INJURY, DEATH OR DETENTION OF EMPLOYEES OUTSIDE U.S.
USC,42-1703	DEFINITION OF CONTRACTOR WITH U.S. RE COMPENSATION TO EMPLOYEES OUTSIDE U.S.
USC,42-1706	AUTHORITY SEC LABOR TO CONTRACT WITH INSURANCE CARRIERS FOR SERVICE RE COMPENSATION OUTSIDE U.S.
USC,42-1855B	AUTHORITY AGENCIES, TO PROVIDE ASSISTANCE TO STATE AND LOCAL GOVERNMENT IN MAJOR DISASTER
USC,42-1855B	NO LIABILITY FOR AGENCY EXERCISING OR NOT EXERCISING AUTHORITY TO GIVE AID IN MAJOR DISASTERS
USC,42-1855E	AGENCY MAY REPAIR & RECONSTRUCT DAMAGED U.S. FACILITIES WITHOUT SPECIFIC AUTHORIZATION
USC,42-1855E	FISCAL LAW RE REPAIR & RECONSTRUCTION BY AGENCY OF DAMAGED U.S. FACILITIES
USC,42-1855F	AUTHORITY AGENCY TO CONTRACT FOR ITEMS FOR TRAVEL & COMMUNICATIONS RE DAMAGE BY CATASTROPHE
USC,42-1855H	AUTHORITY PRESIDENT TO PROVIDE ACCOMODATIONS FOR INDIVIDUALS DISPLACED BY MAJOR DISASTER
USC,42-1855H	DIRECTOR OFFICE OF EMERGENCY PREPAREDNESS MAY STUDY AIR OPERATION FAC. & REPORT TO CONGRESS
USC,42-1856A	AGENCY MAY ENTER INTO AGREEMENT FOR FIRE PROTECTION (RECIPROCAL) WITH FIRE ORGANIZATIONS
USC,42-1856B	AUTHORITY OF AGENCY TO RENDER EMERGENCY ASSISTANCE RE. FIRE PROTECTION
USC,42-1856B	FISCAL LAW RE. FIRE PROTECTION
USC,42-1857B-1	AUTHORITY HEW TO ESTABLISH TEST FACILITIES & SITES RE AIR POLLUTION
USC,42-1857B-1	AUTHORITY SEC HEW TO ACQUIRE PATENTS, SECRET PROCESSES, & OTHER PROPERTY RE AIR POLLUTION
USC,42-1857B-1	AUTHORITY SEC HEW TO CONSTRUCT DEMONSTRATION PLANTS & PROCESSES FOR AIR POLLUTION CONTROL
USC,42-1857B-1	AUTHORITY SEC HEW TO MAKE GRANTS TO FUELS & VEHICLES RESEARCH RE AIR POLLUTION
USC,42-1857B	AUTHORITY HEW TO CONDUCT RESEARCH INTO AIR POLLUTION
USC,42-1857B	AUTHORITY HEW TO CONSTRUCT & EQUIP FACILITIES RE AIR POLLUTION
USC,42-1857B	AUTHORITY HEW TO CONTRACT WITHOUT REGARD TO ADVERTISING & ADVANCE PAYMENT PROHIBITION
USC,42-1857B	AUTHORITY HEW TO MAKE RESEARCH & TRAINING GRANTS RE AIR POLLUTION
USC,42-1857C	AUTHORITY HEW TO MAKE GRANTS FOR AIR-POLLUTION PLANNING & CONTROL AGENCIES
USC,42-1857F-5	AUTHORITY SEC HEW TO TEST NEW MOTOR VEHICLES & ENGINES RE AIR POLLUTION
USC,42-1857F-6B	AUTHORITY SEC HEW TO MAKE GRANTS FOR DEVELOPMENT OF VEHICLE INSPECTION RE AIR POLLUTION
USC,42-1857G	ADVANCE PAYMENTS UNDER GRANTS PERMITTED RE AIR POLLUTION
USC,42-1857G	AUTHORITY SEC HEW TO PRESCRIBE REGULATIONS RE AIR POLLUTION
USC,42-1857J-3	CONTRACTORS EMPLOYEES MUST BE PAID IN ACCORDANCE WITH DAVIS-BACON ACT RE VEHICLE EMISSIONS
USC,42-1857J	ACTION TO INSURE PREVAILING WAGE RATE PAID FOR AIR POLLUTION CONTROL
USC,42-1857J	AUTHORITY SEC HEW TO REQUIRE RECORDS BE KEPT RE AIR POLLUTION
USC,42-1857J	AUTHORITY SEC HEW & COMP-GEN TO AUDIT RECORDS OF RECIPIENTS OF GRANTS RE AIR POLLUTION
USC,42-1857J	FISCAL LAW RE AIR POLLUTION
USC,42-1857(F)(3)	CONTRACTS FOR RESEARCH RE AIR POLLUTION MAY NOT EXCEED 10 YEARS DURATION
USC,42-1857	FEDERAL AGENCY BARRED FROM CONTRACTING WITH PERSON CONVICTED RE CLEAN AIR ACT
USC,42-1862	AUTHORITY NATIONAL SCIENCE FOUNDATION TO HIRE CONSULTANTS
USC,42-1862	AUTHORITY NATIONAL SCIENCE FOUNDATION TO MAKE CONTRACTS & GRANTS
USC,42-1864	AUTHORITY DIRECTOR NATIONAL SCIENCE FOUNDATION TO MAKE CONTRACTS UNDER CERTAIN CIRCUMSTANCES
USC,42-1870	AUTHORITY NATIONAL SCIENCE FOUNDATION TO MAKE ADVANCE & PROGRESS PAYMENTS
USC,42-1870	AUTHORITY NATIONAL SCIENCE FOUNDATION TO MAKE CONTRACTS FOR SCIENTIFIC ACTIVITIES
USC,42-1870	AUTHORITY NATIONAL SCIENCE FOUNDATION TO MAKE CONTRACTS WITHOUT CONSIDERATION, CONDS. ADVER
USC,42-1870	AUTHORITY NATIONAL SCIENCE FOUNDATION TO PRESCRIBE EXTENT VOUCHERS ARE ITEMIZED & SUBSTANTIATED
USC,42-1871	CONTRACTS BY NATIONAL SCIENCE FOUNDATION MUST PROVIDE FOR DISPOSITION OF PATENTS
USC,42-1874	PROHIBITION AGAINST EMPLOYEE OF NATIONAL SCIENCE FOUNDATION RE PATENT RIGHTS UNDER CERTAIN CIRC
USC,42-1873	NATIONAL SCIENCE FOUNDATION SHALL MAKE CONTRACTS THAT WILL REALIZE CERTAIN OBJECTIVES
USC,42-1875	FISCAL LAW RE NATIONAL SCIENCE FOUNDATION
USC,42-1876	NSF SHALL ESTABLISH SCIENCE INFORMATION SERVICE FOR DISSEMINATION OF INFORMATION
USC,42-1876	NSF MAY USE POWERS TO CARRY OUT FUNCTIONS OF SCIENCE INFORMATION SERVICE
USC,42-1891	AUTHORITY CERTAIN AGENCIES TO MAKE GRANTS FOR SUPPORT OF SCIENTIFIC RESEARCH
USC,42-1892	AUTHORITY CERTAIN AGENCIES TO VEST TITLE OF EQUIP PURCHASES WITH GRANT FUNDS FOR SCIENTIFIC USE
USC,42-1893	REPORT TO CONGRESS RE GRANTS FOR SUPPORT OF SCIENTIFIC RESEARCH
USC,42-1900A	AUTHORITY OF SEC INTERIOR TO MAKE REGULATIONS NECESSARY FOR ISSUANCE OF RESEARCH CONTRACTS
USC,42-1900B	AUTHORITY OF SEC INTERIOR TO ISSUE RESEARCH CONTRACTS IS NOT AMENDED OR MODIFIED
USC,42-1900	AUTHORITY SEC INTERIOR TO REQUIRE EVIDENCE OF CAPABILITY OF POTENTIAL CONTRACTORS TO DO RESEARCH
USC,42-1900	RESEARCH CONTRACTS OVER 25,000 AUTHORIZED BY SEC INTERIOR GO TO CONGRESS PRIOR TO EXECUTION
USC,42-1952	AUTHORITY OF SEC INTERIOR TO CONDUCT RESEARCH IN CONVERSION OF SALINE WATER
USC,42-1952	SEC INTERIOR IS TO REPORT TO CONGRESS ON TEST PLANTS OVER 1 MILLION RE SALINE WATER CONVERSION
USC,42-1953	AUTHORITY OF SEC INTERIOR TO HIRE CONSULTANTS FOR WATER RESEARCH AND DEVELOPMENT
USC,42-1953	AUTHORITY SEC INTERIOR TO ACQUIRE LAND PLANTS FACILITIES PROPERTY RE WATER RESEARCH DEVELOPMENT

KEYWORD	
USC,42-1953	AUTHORITY SEC INTERIOR TO ACQUIRE SECRET PROCESS INVENTION PATENT RE WATER RESEARCH DEVELOPMENT
USC,42-1953	AUTHORITY SEC INTERIOR TO CONTRACT WITH EDUCATIONAL INSTITUTION RE WATER RESEARCH & DEVELOPMENT
USC,42-1953	AUTHORITY SEC INTERIOR TO CONTRACT WITH ENGINEERING FIRMS FOR WATER RESEARCH & DEVELOPMENT
USC,42-1953	AUTHORITY SEC INTERIOR TO MAKE RESEARCH & TRAINING GRANTS FOR WATER RESEARCH & DEVELOPMENT
USC,42-1954	AUTHORITY SEC DEF TO OBTAIN TITLE SEARCH & INSURANCE FOR HOUSING FOR MILITARY PERSONNEL
USC,42-1954	CONTRACTS BY SEC DEF FOR DEFENSE HOUSING FOR MILITARY PERSONNEL REQUIRE CERTAIN BONDS
USC,42-1954	DEFINITION OF ELIGIBLE BIDDER RE HOUSING FOR MILITARY PERSONNEL
USC,42-1954	WATER RESEARCH CONTRACTS SHALL PROVIDE FOR MAKING PATENTS AVAILABLE TO THE GENERAL PUBLIC
USC,42-1955	AUTHORITY OF SEC INTERIOR TO DISPOSE OF WATER BY-PRODUCTS
USC,42-1958A	AUTHORITY SEC INTERIOR RE CONSTRUCTION OF DEMONSTRATION PLANTS TO PRODUCE CONSUMPTIVE WATER
USC,42-1958B	AUTHORITY OF SEC INTERIOR TO CONTRACT FOR CONSTRUCTION OF WATER PRODUCING PLANTS
USC,42-1958B	AUTHORITY OF SEC INTERIOR TO CONTRACT FOR OPERATION & MAINTENANCE OF WATER PRODUCING PLANTS
USC,42-1958C	CONTRACTS FOR OPERATION & MAINTENANCE OF WATER-PRODUCING PLANTS MUST REQUIRE RECORD KEEPING
USC,42-1958E	PUBLIC ACCESS IS PERMITTED TO RECORDS OF WATER PRODUCING PLANTS
USC,42-1958B	SEC INTERIOR SHALL ENTER INTO SEPARATE CONTRACTS FOR CONSTRUCTION & OPERATION OF WATER PLANTS
USC,42-1958D	AUTHORITY OF SEC INTERIOR TO DISPOSE OF WATER DEMONSTRATION PLANTS BY SALE TO HIGHEST BIDDER
USC,42-1958D	AUTHORITY SEC INTERIOR TO CONSTRUCT MAINTAIN OPERATE WATER DEMONSTRATION PLANTS ENDED 2-SEP-70
USC,42-1958D	OBSOLETE
USC,42-1958	APPROPRIATIONS AUTHORIZED FOR GRANTS AND CONTRACTS FOR WATER RESEARCH & DEVELOPMENT
USC,42-1958	APPROPRIATION AUTHORIZED FOR CONSTRUCTION OPERATION & MAINTENANCE OF WATER DEMONSTRATION PLANTS
USC,42-1958	AUTHORITY SEC INTERIOR TO CONTRACT FOR WATER DEMONSTRATION PLANTS CONTINGENT UPON APPROPRIATION
USC,42-1958	AUTHORITY SEC INTERIOR TO CONTRACT WITH STATE & PUBLIC AGENCIES RE WATER RESEARCH & DEVELOPMENT
USC,42-1961A1	APPROPRIATIONS AUTHORIZED TO MAKE GRANTS FOR WATER RESOURCES RESEARCH PROJECTS
USC,42-1961A	FISCAL LAW RE STATE WATER RESOURCES RESEARCH INSTITUTES
USC,42-1961B	APPROPRIATIONS AUTHORIZED FOR GRANTS & CONTRACTS FOR RESEARCH IN CERTAIN WATER PROBLEMS
USC,42-1961B	CONTRACTS & GRANTS FOR WATER RESEARCH MUST FIRST BE SUBMITTED TO CONGRESS
USC,42-1961C-2	AUTHORITY SEC INTERIOR TO PROVIDE FOR ADVANCE PAYMENTS ON CONTRACTS FOR WATER RESEARCH
USC,42-1961C	EXPENDITURE OF FUNDS FOR WATER RESEARCH REQUIRES AVAILABILITY OF PRODUCTS & PATENTS TO PUBLIC
USC,42-1962C-6	REQUIRED RECORD KEEPING BY GRANT RECIPIENTS RE DEVELOPMENT OF WATER & RELATED LAND RESOURCES
USC,42-1962C-6	RIGHT TO AUDIT & EXAMINE BOOKS OF RECIPIENTS OF GRANTS FOR WATER & RELATED LAND RESOURCES
USC,42-1962C	FISCAL LAW RE GRANTS FOR DEVELOPMENT OF WATER & RELATED LAND RESOURCES PLANS
USC,42-1962D-11	FISCAL LAW RE DELMARVA PENINSULA HYDRAULIC STUDY
USC,42-1962D-4	SEC ARMY MAY CONSTRUCT, OPERATE & MAINTAIN RESERVOIRS & PURIFICATION FACILITIES
USC,42-1962D-5	NO APPROPRIATIONS FOR WATER RESOURCES DEVELOPMENT UNLESS APPROVED BY PUBLIC WORKS COMMITTEE
USC,42-1962D-5	SEC ARMY MAY CONSTRUCT & OPERATE WATER RESOURCE DEVELOPMENT PROJECTS
USC,42-1962D-5	SEC ARMY MUST REPORT TO CONGRESS ON PROPOSED WATER RESOURCES DEVELOPMENT PROJECTS
USC,42-1962D-7	SEC INTERIOR MAY MAKE A HYDRAULIC STUDY OF DELMARVA PENINSULA
USC,42-2000C-3	AUTHORITY COM EDUCATION RE TRAINING OF INSTITUTES TO DEAL WITH DESEGREGATION PROBLEMS
USC,42-2000C-4	AUTHORITY COM EDUCATION TO EMPLOY SPECIALISTS TO ADVISE ON DESEGREGATION PROBLEMS
USC,42-2000C-4	AUTHORITY COM EDUCATION TO MAKE GRANTS FOR IN-SERVICE TRAINING IN DESEGREGATION PROBLEMS
USC,42-2000C-5	ADVANCE PAYMENTS PERMITTED ON GRANTS FOR EDUCATIONAL PERSONNEL DEALING WITH DESEGREGATION
USC,42-2000C	FACTORS FOR CONSIDERATION BY COM EDUCATION IN MAKING GRANTS RELATING TO DESEGREGATION PROBLEMS
USC,42-2000D-1	AGENCY PROVIDING GRANT ASSISTANCE MAY MAKE REGULATIONS RE PROHIBITING DISCRIMINATION
USC,42-2000D	PROHIBITION AGAINST DISCRIMINATION UNDER FEDERALLY ASSISTED PROGRAMS RE RACE COLOR ORIGIN
USC,42-2000E-2	UNLAWFUL EMPLOYMENT PRACTICES RE EQUAL EMPLOYMENT OPPORTUNITIES
USC,42-2000G	DIRECTOR COMMUNITY RELATIONS SERVICE MAY PROCURE SERVICES OF EXPERTS RE REGISTRATION & VOTING
USC,42-2002	CERTAIN CONDITIONS & RESTRICTIONS IN TRANSFER OF INDIAN HOSPITALS TO STATE & PRIVATE INST
USC,42-2002	SEC HEW MAY CONTRACT FOR TRANSFER OF INDIAN HOSPITALS TO STATE OR PRIVATE INSTITUTIONS
USC,42-2003	SEC HEW MAY MAKE REGULATIONS RE INDIAN HOSPITALS & FACILITIES
USC,42-2004A	ACQUISITION OF LAND & WATER RIGHTS BY SURGEON-GENERAL FOR INDIAN HOSPITALS & FACILITIES
USC,42-2004A	AUTHORITY OF SURGEON-GENERAL TO CONSTRUCT & MAINTAIN SANITATION FACILITIES FOR INDIAN LANDS
USC,42-2004A	AUTHORITY OF SURGEON-GENERAL TO TRANSFER INDIAN HOSPITALS FACILITIES TO STATE TRIBE OR INST
USC,42-2005	FINANCIAL ASSISTANCE TO PUBLIC OR NON-PROFIT AGENCY VS FEDERAL CONSTRUCTION RE INDIAN HOSPITALS
USC,42-2011	CONGRESSIONAL DECLARATION OF POLICY RE ATOMIC ENERGY
USC,42-2012	U.S. MAY MAKE FUND AVAILABLE FOR DAMAGES FROM NUCLEAR INCIDENTS AND LIMIT LIABILITY
USC,42-2014	DEFINITION OF R&D RE DEVELOPMENT & CONTROL OF ATOMIC ENERGY
USC,42-2016	AEC SHALL REPORT TO CONGRESS
USC,42-2017A	APPROPRIATIONS AUTHORIZED FOR ADVANCE PLANNING & ARCHITECTURAL SERVICES RE ATOMIC ENERGY
USC,42-2017	APPROPRIATIONS FOR RESTORATION OR REPLACEMENT OF FACILITIES DESTROYED DAMAGED BY ATOMIC ENERGY
USC,42-2017	CONDITIONS TO AUTHORIZATION FOR USE OF FUNDS FOR CONSTRUCTION PROJECTS RE ATOMIC ENERGY
USC,42-2021	ATOMIC ENERGY COMMISSION REQUIRES LICENSE TO TRANSFER PRODUCTS CONTAINING NUCLEAR MATERIAL
USC,42-2021	RETENTION BY ATOMIC ENERGY COMMISSION OF AUTHORITY TO CONSTRUCT & LICENSE FACILITIES
USC,42-2021	RETENTION BY ATOMIC ENERGY COMMISSION OF AUTHORITY TO DISPOSE OF NUCLEAR MATERIAL & BY-PRODUCTS
USC,42-2032	RESTRICTION ON OUTSIDE EMPLOYMENT OF AEC COMMISSIONERS
USC,42-2051	AUTHORITY OF ATOMIC ENERGY COMMISSION TO CONTRACT FOR RESEARCH & DEVELOPMENT
USC,42-2051	AUTHORITY OF ATOMIC ENERGY COMMISSION TO CONTRACT WITHOUT ADVERTISING
USC,42-2051	AUTHORITY OF ATOMIC ENERGY COMM TO MAKE GRANTS FOR CONSTRUCTION OF REACTORS & OTHER FACILITIES
USC,42-2053	AUTHORITY AEC TO CONDUCT CERTAIN RESEARCH FOR OTHERS & TO CHARGE FOR SUCH ACTIVITY
USC,42-2061	ADVANCE PAYMENTS MAY BE MADE UNDER CONTRACTS FOR RESEARCH & PRODUCTION OF NUCLEAR MATERIAL
USC,42-2061	ATOMIC ENERGY COMM RESEARCH CONTRACTS FOR MAKING NUCLEAR MATERIAL [illegible]
USC,42-2061	AUTHORITY OF ATOMIC ENERGY COMM TO CONTRACT TO PRODUCE NUCLEAR MATERIAL [illegible]
USC,42-2061	CIRCUMSTANCES WHEN ATOMIC ENERGY COMM CAN CONTRACT FOR NUCLEAR MATERIAL [illegible]
USC,42-2061	CONTRACT PROVISION PROHIBITING SUBCONTRACTING FOR RESEARCH & PRODUCTION OF NUCLEAR MATERIAL
USC,42-2061	CONTRACT PROVISION REQUIRING CONTRACTOR REPORTS & SUBJECTION TO INSPECTION RE NUCLEAR MATERIAL
USC,42-2063	ADVANCE PAYMENTS MAY BE MADE UNDER CONTRACTS FOR FACILITIES TO PRODUCE NUCLEAR MATERIAL
USC,42-2063	AUTHORITY ATOMIC ENERGY COMM TO SELL ENERGY PRODUCED AT [illegible] FACILITIES
USC,42-2063	AUTHORITY OF ATOMIC ENERGY COMM TO ACQUIRE PROPERTY FOR PRODUCTION FACILITY BY CONDEMNATION
42-2063	AUTHORITY & MEANS BY WHICH ATOMIC ENERGY COMM MAY ACQUIRE PROPERTY [illegible]
-2063	CIRCUMSTANCES WHEN ATOMIC ENERGY COMM CAN ACQUIRE PRODUCTION FACILITIES [illegible]

KEYWORD	
USC.42-2063	PRICE FOR SALE OF ELECTRIC ENERGY IS SUBJECT TO REGULATIONS BY THE AGENCY HAVING JURISDICTION
USC.42-2064	ATOMIC ENERGY COMM IS NOT AUTHORIZED TO SELL ENERGY EXCEPT ENERGY PRODUCED INCIDENT TO RESEARCH
USC.42-2064	LIMITATION OF ATOMIC ENERGY COMMISSIONS RIGHT TO SELL NUCLEAR MATERIAL
USC.42-2066	PREFERENCES AND PRIORITIES AUTHORIZED IN SALE OF NUCLEAR ENERGY
USC.42-2073	AUTHORITY OF ATOMIC ENERGY COMMISSION TO LEASE, TO DISTRIBUTE NUCLEAR MATERIAL TO LICENSEES
USC.42-2073	AUTHORITY OF ATOMIC ENERGY COMMISSION TO SET PRICE FOR SALE OF NUCLEAR MATERIAL
USC.42-2074	AUTHORITY OF ATOMIC ENERGY COMMISSION TO PURCHASE NUCLEAR MATERIAL PRODUCED OUTSIDE U.S.
USC.42-2074	AUTHORITY OF ATOMIC ENERGY COMMISSION TO REPURCHASE NUCLEAR MATERIAL FROM FOREIGN NATIONS
USC.42-2074	AUTHORITY OF ATOMIC ENERGY COMMISSION TO SELL NUCLEAR MATERIAL TO FOREIGN NATIONS
USC.42-2074	LIMITATIONS ON SALE PURCHASE & REPURCHASE PRICE OF NUCLEAR MATERIAL BY ATOMIC ENERGY COMMISSION
USC.42-2075	ADVANCE PAYMENTS MAY BE MADE UNDER CONTRACTS FOR NUCLEAR MATERIAL
USC.42-2075	AUTHORITY ATOMIC ENERGY COMM TO ACQUIRE NUCLEAR MATERIAL WITHOUT QUANTITY & PRICE RESTRICTION
USC.42-2075	AUTHORITY OF ATOMIC ENERGY COMMISSION TO CONTRACT FOR NUCLEAR MATERIAL WITHOUT ADVERTISING
USC.42-2076	AUTHORITY ATOMIC ENERGY COMMISSION TO ESTABLISH GUARANTEED PURCHASE PRICE FOR NUCLEAR MATERIAL
USC.42-2076	OBSOLETE
USC.42-2076	AEC SHALL SUBMIT PROPOSED GUARANTEED PURCHASE PRICE FOR SPECIAL NUCLEAR MATERIAL TO JCAE
USC.42-2093	AUTHORITY AEC TO ISSUE SOURCE MATERIAL & LICENSES FOR CONDUCT OF CERTAIN R&D
USC.42-2094	AUTHORITY ATOMIC ENERGY COMMISSION TO DISTRIBUTE NUCLEAR SOURCE MATERIAL TO FRIENDLY NATIONS
USC.42-2096	ACQUISITION OF SUPPLIES LAND RIGHT-OF-WAY WITHOUT ADVERTISING RE NUCLEAR MATERIAL
USC.42-2096	ADVANCE PAYMENTS UNDER CONTRACTS FOR SUPPLIES LAND RIGHT-OF-WAY RE NUCLEAR SOURCE MATERIAL
USC.42-2096	AUTHORITY ATOMIC ENERGY COMMISSION TO ESTABLISH GUARANTEED PRICES FOR SOURCE MATERIAL
USC.42-2096	AUTHORITY ATOMIC ENERGY COMM RE INTEREST IN REAL PROPERTY WITH NUCLEAR SOURCE MATERIAL DEPOSITS
USC.42-2096	AUTHORITY ATOMIC ENERGY COMM RIGHT-OF-WAY ON REAL PROPERTY TO CONDUCT EXPLORATORY OPERATIONS
USC.42-2096	AUTHORITY OF ATOMIC ENERGY COMMISSION TO ACQUIRE SUPPLIES OF NUCLEAR SOURCE MATERIAL
USC.42-2097	AUTHORITY ATOMIC ENERGY COMM TO ISSUE LEASES FOR MINING REMOVAL OF SOURCE MATERIAL ON U.S. LAND
USC.42-2099	PROHIBITION OF PERSONS BENEFITING FROM CONFIDENTIAL OFFICIAL INFORMATION RE ATOMIC ENERGY
USC.42-2095	PROHIBITIONS AGAINST ISSUANCE OF LICENSES TO SELL OR TRANSFER NUCLEAR SOURCE MATERIAL
USC.42-2111	AUTHORITY OF ATOMIC ENERGY COMMISSION TO ESTABLISH PRICES FOR BY-PRODUCTS
USC.42-2111	AUTHORITY OF ATOMIC ENERGY COMMISSION TO ISSUE LICENSES FOR USE OF NUCLEAR BY-PRODUCTS
USC.42-2111	AUTHORITY OF ATOMIC ENERGY COMM TO SELL NUCLEAR BY-PRODUCTS TO LICENSEES WITH OR WITHOUT CHARGE
USC.42-2112	AUTHORITY ATOMIC ENERGY COMM TO DISTRIBUTE BY-PRODUCT MATERIALS TO FRIENDLY NATIONS
USC.42-2112	AUTHORITY ATOMIC ENERGY COMM TO DISTRIBUTE BY-PRODUCT MATERIALS TO PERSONS OUTSIDE U.S.
USC.42-2112	AUTHORITY OF ATOMIC ENERGY COMMISSION TO ISSUE [illegible] LICENSE FOR BY-PRODUCT MATERIAL
USC.42-2121	AUTHORITY ATOMIC ENERGY COMM RE PRODUCTION OF ATOMIC WEAPONS UPON YEARLY CONSENT OF PRESIDENT
USC.42-2121	AUTHORITY ATOMIC ENERGY TO DO RESEARCH & DEVELOPMENT FOR MILITARY APPLICATION OF ATOMIC ENERGY
USC.42-2121	PRESIDENT MAY AUTHORIZE DEPT DEFENSE TO MANUFACTURE OR ACQUIRE ATOMIC WEAPONS FOR MILITARY USE
USC.42-2121	PRESIDENT MAY AUTHORIZE SALE OF ATOMIC ENERGY FACILITIES TO FOREIGN NATIONS FOR MILITARY USE
USC.42-2121	PRESIDENT MAY AUTHORIZE SALE OF NONNUCLEAR PARTS OF ATOMIC WEAPONS TO FOREIGN NATIONS
USC.42-2121	PRESIDENT MAY AUTHORIZE SALE OF NUCLEAR MATERIAL FOR USE IN ATOMIC WEAPONS
USC.42-2121	PRESIDENT MAY AUTHORIZE SALE OF NUCLEAR MATERIAL TO FOREIGN NATIONS FOR MILITARY APPLICATION
USC.42-2122	CERTAIN PROHIBITIONS ON PRODUCTION MANUFACTURE OR ACQUISITION OF ATOMIC WEAPONS
USC.42-2131	RESTRICTION ON MANUFACTURE OF UTILIZATION OR PRODUCTION FACILITIES RE ATOMIC WEAPONS
USC.42-2133	ATOMIC ENERGY COMM SHALL ISSUE LICENSES ON A [illegible] BASIS TO CERTAIN PERSONS
USC.42-2133	AUTHORITY ATOMIC ENERGY COMM TO ISSUE LICENSES TO FOREIGN NATIONS RE UTILIZATION FACILITIES
USC.42-2133	ISSUE OF LICENSES TO FOREIGN NATIONS FOR TRANSFER USE PRODUCTION RE NUCLEAR MATERIAL FACILITIES
USC.42-2137	AEC EXPORT LICENSES RE UTILIZATION & PRODUCTION FACILITIES BASED ON COMMON DEFENSE & SECURITY
USC.42-2136	AUTHORITY ATOMIC ENERGY COMM TO SUSPEND LICENSES DURING WAR OR NATIONAL EMERGENCY
USC.42-2140	AEC LICENSING REQUIREMENTS NOT APPLICABLE TO CERTAIN CONTRACTORS OF AEC & DOD
USC.42-2163	AEC & DOD CONTRACTORS TO HAVE ACCESS TO RESTRICTED DATA IF AUTHORIZED BY AEC
USC.42-2164	PRESIDENT MAY AUTHORIZE AEC AND DOD TO COMMUNICATE TO FOREIGN NATIONS RESTRICTED DATA
USC.42-2165	SECURITY RESTRICTIONS FOR AEC CONTRACTORS
USC.42-2181	TREATMENT OF INVENTIONS & PATENT RIGHTS RE ATOMIC WEAPONS
USC.42-2182	APPEALS MAY BE TAKEN FROM BOARD OF PATENT INTERFERENCES TO COURT OF CUSTOMS & PATENT APPEALS
USC.42-2182	APPEAL TO BOARD-OF-PATENT-INTERFERENCES FROM REJECTION OF PATENT APPLICATION RE ATOMIC ENERGY
USC.42-2182	AUTHORITY ATOMIC ENERGY COMMISSION TO WAIVE ITS PROPERTY RIGHTS IN INVENTIONS & DISCOVERIES
USC.42-2182	AUTHORITY BOARD OF PATENT INTERFERENCES TO DETERMINE IF ATOMIC ENERGY COMM IS ENTITLED PATENT
USC.42-2182	CONSEQUENCES OF FALSE STATEMENT FILED BY APPLICANT FOR PATENT RELATING TO ATOMIC ENERGY
USC.42-2182	INVENTIONS DISCOVERIES CONCEIVED DURING CONTRACT WITH ATOMIC ENERGY COMM ARE AEC PROPERTY
USC.42-2182	STATEMENT REQUIRED PRIOR TO ISSUANCE OF PATENT FOR INVENTION CONCEIVED DURING AEC CONTRACT
USC.42-2183	TREATMENT OF INVENTIONS & PATENT RIGHTS RE NONMILITARY UTILIZATION OF ATOMIC ENERGY
USC.42-2184	COURT SHALL NOT HAVE JURISDICTION TO ISSUE INJUNCTION AGAINST USE OF ATOMIC ENERGY DISCOVERY
USC.42-2184	COURT SHALL NOT HAVE JURISDICTION TO ISSUE INJUNCTION AGAINST USE OF ATOMIC ENERGY INVENTION
USC.42-2184	MEASURE OF DAMAGES FOR INFRINGEMENT OF PATENT RE ATOMIC ENERGY IS ROYALTY FEE
USC.42-2185	AEC SHALL ESTABLISH STANDARD SPECIFICATIONS FOR GRANTING PATENT LICENSES RE ATOMIC ENERGY
USC.42-2186	AEC SHALL ESTABLISH STANDARDS UPON WHICH IT MAY GRANT A PATENT LICENSE
USC.42-2187	ELIGIBILITY AND STANDARDS FOR COMPENSATION AWARDS ROYALTIES ON PATENTS RE ATOMIC ENERGY
USC.42-2188	PENALTIES FOR USING PATENT IN WAY THAT VIOLATES ANTITRUST LAWS
USC.42-2189	AEC MAY REQUIRE PATENTS ON INVENTIONS CONCEIVED DURING FEDERAL RESEARCH BE ASSIGNED TO U.S
USC.42-215	SEC HEW MAY ESTABLISH [illegible] TO [illegible]
USC.42-218	SEC HEW MAY MAINTAIN, PRESERVE, REPAIR OR SELL & [illegible] PROPERTY GIVEN U.S. AS GIFT
USC.42-21	AEC SHALL PRESCRIBE CONDITIONS & QUALIFICATIONS RE LICENSES FOR OPERATION OF PRODUCTION FACILITIES
USC.42-2201	AEC MAY ACQUIRE HOUSING & RECREATIONAL FACILITIES FOR PERSONS EMPLOYED BY AEC
USC.42-2201	AEC MAY ACQUIRE PROPERTY & FACILITIES & CONSTRUCT & MODIFY FACILITIES AS NECESSARY
USC.42-2201	AEC MAY ACQUIRE REAL & PERSONAL PROPERTY, INCLUDING PATENTS
USC.42-2201	AEC MAY CONTRACT FOR NECESSARY SUPPLIES FOR [illegible] CERTAIN [illegible]
USC.42-2201	AEC MAY CONTRACT FOR PROCESSING OR FABRICATION OF NUCLEAR MATERIAL IN AEC FACILITIES
USC.42-2201	AEC MAY CONTRACT FOR [illegible] SERVICES
USC.42-2201	AEC MAY CONTRACT WITH DOMESTIC LICENSEES FOR SPECIAL NUCLEAR MATERIAL IN AEC FACILITIES
USC.42-2201	AEC MAY CONTRACT WITH FOREIGN NATIONS FOR PRODUCING OF SPECIAL NUCLEAR MATERIAL BY AEC

KEYWORD	
USC,42-2201	AEC MAY DISPOSE OF CERTAIN MATERIALS WITHOUT REGARD TO FEDERAL PROPERTY & ADMINISTRATIVE SERV
USC,42-2201	AEC MAY GRANT LEASES & PERMITS TO RUN COMMERCIAL BUSINESSES IN AEC COMMUNITIES
USC,42-2201	AEC MAY ISSUE SUBPENAS TO ANY PERSON TO TESTIFY OR PRODUCE RECORDS
USC,42-2201	AEC MAY MAKE AGREEMENTS TO PROVIDE PROCESSING & FABRICATION OF NUCLEAR MATERIAL IN AEC PLANT
USC,42-2201	AEC MAY MAKE EXTENSIONS OF FACILITIES
USC,42-2201	AEC MAY MAKE NECESSARY RULES & REGULATIONS
USC,42-2201	AEC MAY PRESCRIBE REGULATIONS FOR DESIGN & LOCATION OF FACILITIES RE HEALTH & DANGER
USC,42-2201	AEC MAY SELL CERTAIN UTILITIES & SERVICES IF IN NATIONAL DEFENSE OR PUBLIC INTEREST
USC,42-2201	AEC MAY SELL OR LEASE CERTAIN NUCLEAR MATERIAL
USC,42-2201	AEC MAY SELL, LEASE & DISPOSE OF REAL & PERSONAL PROPERTY
USC,42-2201	AEC SHALL ESTABLISH CRITERIA FOR AVAILABILITY OF SERVICES FOR PRODUCTION OF NUCLEAR MATERIAL
USC,42-2201	AEC SHALL SUBMIT CRITERIA TO CONGRESS FOR AVAILABILITY OF NUCLEAR MATERIAL PRODUCTION
USC,42-2201	AGREEMENTS RE PRODUCTION & SALE OF NUCLEAR MATERIALS MAY BE CANCELED UPON LICENSEES PAYMENT
USC,42-2201	CERTAIN LIMITATIONS ON AEC POWER TO CONTRACT FOR PRODUCTION OF NUCLEAR MATERIAL
USC,42-2201	CONSIDERATIONS FOR ISSUING LEASES & PERMITS WITHOUT ADVERTISING TO RUN AEC COMMUNITY BUSINESSES
USC,42-2201	FISCAL LAW RE AEC
USC,42-2201	LIMITATIONS ON PERMISSABLE PERIOD FOR AEC CONTRACTS FOR SUPPLIES ETC
USC,42-2201	PRINCIPLES GUIDING AEC IN CONTRACTING FOR SUPPLIES, EQMT, & SERVICES
USC,42-2202	PRESIDENT MAY EXEMPT SPECIFIC ACTION OF AEC FROM PROVISIONS OF CONTRACT LAW RE NATIONAL INTR.
USC,42-2204A	AEC CONTRACTS MAKING AVAILABLE FISSION PRODUCTS FOR COMMERCIAL USE WITHOUT REGARD TO 31-665
USC,42-2204A	AEC MAY TERMINATE FISSION PRODUCT CONTRACTS UPON PAYMENT OF CANCELLATION CHARGES
USC,42-2204A	CONGRESS MAY WAIVE CONDITION REQUIRING AEC TO SUBMIT FOR 45 DAYS FISSION CONTRACTS
USC,42-2204A	REQUIREMENT THAT AEC SUBMIT TO CONGRESS BASIS FOR PROVIDING FISSION PRODUCT BEFORE CONTRACTING
USC,42-2204	AEC MAY CANCEL ELECTRIC UTILITY CONTRACTS UPON PAYMENT OF CANCELLATION COSTS
USC,42-2204	AEC MAY CONTRACT FOR ELECTRIC UTILITY SERVICES TO CERTAIN INSTALLATIONS WITHOUT USC,31-665
USC,42-2204	AEC MAY CONTRACT FOR MAKING FISSION PRODUCTS PRODUCES FROM AEC REACTORS AVAILABLE FOR COMMERCIAL
USC,42-2204	AEC MAY CONTRACT TO FURNISH ELECTRIC UTILITY SERVICES TO TVA
USC,42-2204	AEC'S ELECTRIC UTILITY CONTRACTS MUST BY SUBMITTED TO CONGRESS FOR 30 DAY BEFORE EFFECTIVE
USC,42-2204	CANCELLATION PAYMENTS FOR ELECTRIC UTILITY CONTRACTS BY AEC ARE CONSIDERED BY RATES
USC,42-2204	CONGRESS MAY WAIVE 30 DAY WAITING PERIOD FOR AEC ELECTRIC UTILITY CONTRACTS
USC,42-2205	PROHIBITION AGAINST DIRECT PAYMENT OR REIMBURSEMENT BY AEC OF FEDERAL INCOME TAXES CONTRACTOR
USC,42-2205	PROHIBITION OF COST PLUS PCT OF COST SYSTEM OF CONTRACTING BY AEC
USC,42-2206	CLAUSE PROVIDING FOR COMP GEN AUDIT REQUIRED IN CERTAIN AEC NEGOTIATED CONTRACTS
USC,42-2206	CONTRACTOR & SUBCONTRACTOR MAY DISPOSE OF RECORDS WITHIN 3 YEARS IF AGREED TO BY AEC & GAO
USC,42-2206	NO PAYMENTS UNDER CERTAIN NEGOTIATED CONTRACTS WHICH PRECLUDE AUDIT BY GAO
USC,42-2207	AEC MAY SETTLE CERTAIN CLAIMS OF 5,000 OR LESS NOT CAUSED BY WRONGFUL ACT OR NEGLIGENCE
USC,42-2207	CLAIMS IN EXCESS OF 5,000 CONSIDERED MERITORIOUS BY AEC SHALL BE SUBMITTED TO CONGRESS
USC,42-2209	FISCAL LAW RE LIMITATIONS ON USE OF FUNDS BY AEC FOR CONSTRUCTION & OPERATION OF CERTAIN FAC.
USC,42-2210	AEC MAY COLLECT FEES FROM PERSONS WITH WHOM INDEMNIFICATION AGREEMENT IS EXECUTED
USC,42-2210	AEC MAY MAKE ADVANCE PAYMENTS ON CONTRACTS WITH PRIVATE INSURANCE COMPANIES FOR INDEMNIFICATION
USC,42-2210	AEC MAY MAKE INDEMNIFICATION CONTRACTS WITH PRIVATE INSURANCE COMPANIES WITHOUT ADVERTISING
USC,42-2210	AEC MAY REQUIRE APPLICANT TO WAIVE PUBLIC LIABILITY IMMUNITY AS CONDITION FOR LICENSE
USC,42-2210	AEC MAY USE PRIVATE INSURANCE COMPANIES FOR INDEMNIFICATION CONTRACTS
USC,42-2210	AEC MUST CONSIDER CERTAIN FACTORS IN LOWERING AMOUNT OF FINANCIAL PROTECTION OF LICENSEE
USC,42-2210	AEC OR PERSON INDEMNIFIED BY AEC MAY APPLY TO DISTRICT COURT WHEN NUCLEAR ACCIDENT RE LIABILITY
USC,42-2210	AEC SHALL INDEMNIFY LICENSEES FROM LIABILITY IN EXCESS OF FINANCIAL PROTECTION RE ACCIDENT
USC,42-2210	APPLICANT MUST MAINTAIN FINANCIAL PROTECTION TO COVER LIABILITY CLAIMS BEFORE AEC LICENSE
USC,42-2210	CONDITION PREDECENT TO CERTAIN AEC LICENSE APPLICANT MUST MAINTAIN INDEMNIFICATION AGREEMENT
USC,42-2210	CONTRACT OF INDEMNIFICATION SHALL COVER PUBLIC LIABILITY ARISING FROM LICENSED ACTIVITY RE AEC
USC,42-2210	LIMITATIONS ON THE AGGREGATE LIABILITY FOR SINGLE NUCLEAR ACCIDENT RE AEC
USC,42-2221	AEC MAY DETERMINE & PAY JUST COMPENSATION FOR REQUISITIONED PROPERTY EXCEPT REAL & INTEREST
USC,42-2221	PERSON WHO CONSIDERS COMPENSATION FOR REQUISITIONED PROPERTY UNJUST - COURT OF CLAIMS APPEAL
USC,42-2221	U.S. SHALL MAKE JUST COMPENSATION FOR REQUISITIONED PROPERTY FOR AEC
USC,42-2222	PROVISIONS FOR CONDEMNATION OF REAL PROPERTY RE AEC
USC,42-2231	APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT TO AEC AGENCY ACTION EXCEPT FOR RESTRICTED DATA
USC,42-2236	AEC MAY RECAPTURE SPECIAL NUCLEAR MATERIAL FROM LICENSEES & ENTER UPON & OPERATE FACILITIES
USC,42-2236	AEC MAY REVOKE LICENSES UNDER CERTAIN SITUATIONS
USC,42-2236	UPON REVOCATION OF LICENSE, AEC MAY RETAKE POSSESSION OF SPECIAL NUCLEAR MATERIAL
USC,42-2238	AEC MAY PROVIDE FOR CONTINUED OPERATION OF FACILITY THE LICENSES OF WHICH HAVE BE REVOKED
USC,42-2284	SEC HEW MAY PROVIDE MEMORIALS & ACKNOWLEDGEMENTS FOR CONTRIBUTIONS TO NATIONS HEALTH
USC,42-2292	AEC MAY CONTRACT FOR R&D IN CONNECTION WITH TYPES OF REACTORS
USC,42-2292	APPROPRIATION AVAILABLE FOR R&D PROGRAMS IN CONNECTION WITH TYPES OF REACTORS RE AEC
USC,42-2292	AUTHORITY ATOMIC ENERGY COMM TO CONTRACT FOR RESEARCH OF REACTORS RE EURATOM COOPERATION
USC,42-2292	FISCAL LAW RE ATOMIC ENERGY
USC,42-2293	AEC MAY MAKE GUARANTEE CONTRACTS WITHOUT ADVERTISING & WITHOUT REGARD TO 31-665
USC,42-2293	AEC MAY OBTAIN ROYALTY-FREE, IRREVOCABLE LICENSE TO CERTAIN PATENTS
USC,42-2293	AUTHORITY ATOMIC ENERGY COMM TO MAKE GUARANTEE CONTRACTS WITHOUT ADVERTISING RE EURATOM
USC,42-2293	CRITERIA TO GUIDE ATOMIC ENERGY COMM IN ENTERING INTO GUARATEE CONTRACTS RE EURATOM COOPERATION
USC,42-2293	PRINCIPLES GUIDING AEC IN MAKING GUARANTEE CONTRACTS
USC,42-2294	AUTHORITY ATOMIC ENERGY COMMISSION TO CONTRACT FOR PRODUCTION OF NUCLEAR MATERIAL RE EURATOM
USC,42-2294	AUTHORIZATION FOR SALE OF LIMITED AMOUNTS OF NUCLEAR MATERIAL TO EURATOM
USC,42-2295	AEC MAY ACQUIRE SPECIAL NUCLEAR MATERIALS RE EURATOM COOPERATION
USC,42-2295	AUTHORITY ATOMIC ENERGY COMMISSION TO ACQUIRE NUCLEAR MATERIAL FROM EURATOM
USC,42-2295	AUTHORITY ATOMIC ENERGY COMM TO SET PRICES & TIME OF CONTRACTS FOR PLUTONIUM URANIUM RE EURATOM
USC,42-2295	CONTRACTS FOR ACQUISITION OF SPECIAL NUCLEAR MATERIAL BY AEC WITHOUT ADVERTISING RE EURATOM
USC,42-2295	CONTRACTS FOR NUCLEAR MATERIAL MADE WITHOUT REGARD TO 31-665 RE EURATOM COOPERATION
USC,42-2295	CONTRACTS FOR NUCLEAR MATERIAL MAY BE MADE WITHOUT ADVERTISING UNDER CERTAIN CIRCUMSTANCES
USC,42-2295	CONTRACTS FOR NUCLEAR MATERIAL MAY BE MADE WITHOUT REGARD TO SECTION 665 TITLE-31 RE EURATOM
USC,42-2295	CONTRACT PRICE FOR PLUTONIUM URANIUM SHALL NOT EXCEED ATOMIC ENERGY COMM PRICE RE EURATOM

KEYWORD	
USC,42-2295	LIMITATIONS OF AEC AUTHORITY TO PRICE & PERIOD OF CONTRACTS FOR PLUTONIUM RE EURATOM COOP
USC,42-2295	LIMITATIONS ON AEC AUTHORITY TO PRICE & PERIOD OF CONTRACTS FOR URANIUM RE EURATOM
USC,42-2295	LIMITATION OF AMOUNT OF CERTAIN NUCLEAR MATERIAL AEC CAN ACQUIRE RE EURATOM COOPERATION
USC,42-2295	RESTRICTIONS ON AMOUNTS OF PLUTONIUM URANIUM TO BE ACQUIRED BY ATOMIC ENERGY COMM FROM EURATOM
USC,42-22	AEC MAY INCLUDE IN CONTRACTS PROVISIONS WHICH LIMIT OBLIGATIONS OF FUNDS TO EST. ANNUAL DELIVERIES
USC,42-2310	AEC MAY REPOSSESS PROPERTY SOLD IN ACCORDANCE WITH CONTRACT TERMS TO PURCHASE OR MORTGAGE
USC,42-2310	AEC MAY SELL, OPERATE, RENOVATE AND REPOSSESS PROPERTY
USC,42-2310	AEC MAY SETTLE CLAIMS ARISING FROM REPOSSESSION OF PROPERTY & SALE THEREOF
USC,42-2310	CONTRACTS NOT EXCEEDING 1,000 INVOLVING REPOSSESSED PROPERTY MADE WITHOUT ADVERTISING
USC,42-2311	ESTABLISHMENT OF COMMUNITY DISPOSAL OPERATIONS FUND TO PAY FOR DISPOSING OF AEC COMMUNITIES
USC,42-2332	PREFERENCE SHALL BE GIVEN TO CONTRACTORS RE SALE OF AEC-OWNED GOVT PROPERTY
USC,42-2362	AEC MAY MAKE ADVANCE PAYMENTS TO RESIDENTIAL PROPERTY RE DISPOSAL OF AEC COMMUNITIES
USC,42-2362	AEC MAY SELL NOTES & MORTGAGES ACQUIRED WHILE TRYING TO SELL RESIDENTIAL PROPERTY
USC,42-2362	WHEN AEC CAN CONTRACT WITHOUT ADVERTISING FOR SALE OF NOTES & MORTGAGES RE AEC COMMUNITIES
USC,42-2394	AEC MAY CONTRACT WITHOUT REGARD TO 31-0665 WITH CERTAIN GOVT ENTITIES FOR PAYMENTS RE AEC COMM
USC,42-2403	HOUSING & HOME FINANCE ADMINISTRATOR TO PROVIDE FLOOD INSURANCE
USC,42-2404	HOUSING & HOME FINANCE ADMINISTRATOR TO GUARANTEE FINANCING INSTIT. AGAINST FLOOD LOSS
USC,42-2412	HOUSING & HOME FINANCE ADMINISTRATOR MAY USE FACILITIES OF PRIVATE INSURANCE ORGAN. RE FLOOD
USC,42-2413	ADMINISTRACTOR MAY PAY FOR FLOOD LOSSES COVERED BY INSURANCE
USC,42-2413	ADMINISTRATOR OF HOUSING & HOME FINANCE MAY ADJUST & PAY CLAIMS FOR FLOOD LOSSES
USC,42-2413	APPEAL OF HOUSING & HOME FINANCE DECISION TO DISTRICT COURT RE FLOOD INSURANCE
USC,42-2416	HOUSING & HOME FINANCE ADMIN STUDY OF PARTICIPATION IN INSURANCE COVERAGE OF NATURAL DISASTERS
USC,42-2416	HOUSING & HOME FINANCE ADMIN STUDY OF PRACTICABILITY OF INSURANCE FOR NATIONAL DISASTER PERILS
USC,42-2417	AUTHORITY HOUSING & HOME FINANCE ADMIN TO ACQUIRE REAL & PERSONAL PROPERTY WITHOUT ADVERTISING
USC,42-2417	AUTHORITY HOUSING & HOME FINANCE ADMIN TO MAKE ADVANCE PAYMENTS RE REAL & PERSONAL PROPERTY
USC,42-2417	AUTHORITY OF HOUSING & HOME FINANCE ADMINISTRATOR TO CONDUCT RESEARCH RE FLOOD INSURANCE
USC,42-2417	AUTHORITY OF HOUSING & HOME FINANCE ADMINISTRATOR TO CONTRACT WITHOUT ADVERTISING
USC,42-2417	AUTHORITY OF HOUSING & HOME FINANCE ADMINISTRATOR TO MAKE ADVANCE PAYMENTS
USC,42-2417	AUTHORITY OF HOUSING & HOME FINANCE ADMINISTRATOR TO MAKE NECESSARY RULES & REGULATIONS
USC,42-2417	AUTHORITY OF HOUSING & HOME FINANCE ADMIN TO EXERCISE POWERS INCIDENTAL TO GRANTED POWERS
USC,42-2417	AUTHORITY OF HOUSING & HOME FINANCE ADMIN TO SELL OR DISPOSE OF REAL & PERSONAL PROPERTY
USC,42-2418	ACQUISITION OF PROPERTY BY HOUSING & HOME FINANCE ADMIN RESTATE CIVIL & CRIMINAL JURISDICTION
USC,42-242C	FISCAL LAW RE NATIONAL HEALTH SURVEYS & STUDIES
USC,42-242C	INFORMATION ACQUIRED DURING NATIONAL HEALTH SURVEY CANNOT BE PUBLISHED UNLESS CONSENT GIVEN
USC,42-242C	SEC HEW MAY CONTRACT FOR R&D TO DEVELOP UNIFORM SYSTEM OF HEALTH INFORMATION & STATISTICS
USC,42-242C	SURGEON GENERAL MAY MAKE NATIONAL HEALTH SURVEY & STUDY
USC,42-2453	OBSOLETE
USC,42-2454	INFORMATION OBTAINED OR DEVELOPED BY NASA SHALL BE AVAILABLE TO PUBLIC WITH CERTAIN EXCEPTIONS
USC,42-2455(A)	SECURITY REQUIREMENTS & INVESTIGATIONS RE NASA CONTRACTORS & SUBCONTRACTORS
USC,42-2455(B)	ACCESS TO AEC RESTRICTED DATA BY NASA CONTRACTORS & SUBCONTRACTORS
USC,42-2456	AUTHORIZATION BY NASA FOR EMPLOYEES OF CONTRACTORS AND SUBCONTRACTORS TO CARRY FIREARMS
USC,42-2457	AUTHORITY BOARD OF PATENT INTERFERENCES TO DECIDE QUESTION WHETHER FALSE REPRESENTATIONS MADE
USC,42-2457	AUTHORITY OF NASA ADMINISTRATOR TO WAIVE U.S. RIGHTS IN INVENTIONS
USC,42-2457	BOARD OF PATENT INTERFERENCES MAY DECIDE IF NASA ADMINISTRATOR HAS RIGHTS TO PATENT
USC,42-2457	CERTAIN INVENTIONS MADE IN PERFORMANCE UNDER NASA CONTRACTS ARE EXCLUSIVE PROPERTY OF U.S.
USC,42-2457	COMMISSIONER OF PATENTS NO ISSUE PATENT UNLESS NASA ADMINISTRATOR REQUESTS PATENT
USC,42-2457	DEFINITION OF CONTRACTS FOR NASA PURPOSES
USC,42-2457	ESTABLISHMENT OF INVENTIONS & CONTRIBUTIONS BOARD TO MAKE RE PATENT RIGHTS TO NASA ADMINISTRATOR
USC,42-2457	NASA ADMINISTRATOR MAY PROTECT INVENTIONS & DISCOVERIES & LICENSES FOR THEIR USE
USC,42-2457	NASA ADMINISTRATOR MAY REGULATE LICENSES FOR PRACTICE OF NASA PATENTED INVENTIONS
USC,42-2457	NASA ADMINISTRATOR MAY REQUEST TRANSFER OF PATENT TO HIM ON APPLICANTS FALSE REPRESENTATION
USC,42-2457	PATENT APPLICATION REQUIREMENTS FOR INVENTION HAVING UTILITY IN AERNAUTICAL & SPACE
USC,42-2457	PROVISION FOR REPORTING INVENTIONS DISCOVERIES & IMPROVEMENTS AS REQUIRED IN NASA CONTRACTS
USC,42-2458	APPLICANT MUST SURRENDER CLAIMS PRIOR TO RECEIPT OF MONETARY AWARD FOR AERONANTICAL & SPACE
USC,42-2458	CONSIDERATIONS OF NASA ADMINISTRATOR IN DETERMINING TERMS & CONDITIONS OF MONETARY AWARDS
USC,42-2458	NASA ADMINISTRATOR MAY AWARD MONEY TO PERSONS FOR SCIENTIFIC OR TECHNICAL CONTRIBUTIONS TO NASA
USC,42-2458	NASA ADMINISTRATOR MUST REPORT TO CONGRESS PRIOR TO AWARDING OVER 100000 TO AERNAUTICAL & SPACE
USC,42-2459	NASA AUTHORIZATIONS LIMITED TO 3 YEAR PERIOD FOLLOWING FISCAL YEAR OF ENACTMENT
USC,42-2459	NASA FUNDS APPROPRIATED FOR FACILITIES CONSTRUCTION MAY BE USED FOR EMERGENCY REPAIRS
USC,42-2459	SPACE ACT DOES NOT AUTHORIZE APPROPRIATIONS FOR PURCHASE OF CERTAIN CAPITAL FACILITIES BY NASA
USC,42-2459	SPACE ACT DOES NOT AUTHORIZE APPROPRIATIONS FOR PURCHASE OF REAL PROPERTY BY NASA
USC,42-245	DETERMINATION OF BOARD OF PATENT INTERFERENCES IS APPEALABLE TO COURT OF CUSTOMS & PATENT APPEALS
USC,42-2460	NO APPROPRIATION MAY BE MADE TO NASA UNLESS PREVIOUSLY AUTHORIZED
USC,42-2472	ADMINISTRATOR OF NASA AND HIS DEPUTY MAY NOT ENGAGE IN ANY OTHER BUSINESS OR EMPLOYMENT
USC,42-2473	AUTHORITY NASA TO EMPLOY ALIENS
USC,42-2473	AUTHORITY NASA TO HIRE CONSULTANTS
USC,42-2473	AUTHORITY NASA TO MAKE ADVANCE PAYMENTS ON CONTRACTS
USC,42-2473	AUTHORITY NASA TO REPORT TO CONGRESS FOR CONSIDERATION MERITORIOUS CLAIMS IN EXCESS OF 5,000
USC,42-2473	NASA ADMINISTRATOR MAY ALLOCATE CONTRACTS TO ENABLE SMALL BUSINESS TO PARTICIPATE
USC,42-2473	NASA MAY ACQUIRE REAL, PERSONAL PROPERTY INCLUDING PATENTS WITHIN & OUTSIDE U.S.
USC,42-2473	NASA MAY DISPOSE OF PROPERTY ACCORDING TO FEDERAL PROPERTY & ADMINISTRATIVE SERVICES ACT 1949
USC,42-2473	NASA MAY MAKE RULES & REGULATIONS GOVERNING ITS OPERATION & EXERCISE OF ITS POWER
USC,42-2473	TING FACILITIES & EMPLOYEE ACCOM.
USC,42-2475	AUTHORITY NASA TO ENGAGE IN PROGRAMS OF INTERNATIONAL COOPERATION
USC,42-2504	SUBSTANTIAL & PERSISTENT UNEMPLOYMENT FOR EXTENDED PERIOD MAY DESIGNATE REDEVELOPMENT AREA
USC,42-2506	SEC COMMERCE MAY MAKE GRANTS FOR DEVELOPMENT OF PUBLIC FACILITIES RE REDEVELOPMENT AREAS
USC,42-2507	AUTHORITY SEC COMMERCE TO SUPERVISE PROJECTS RE REDEVELOPMENT AREA LOANS & GRANTS
USC,42-2507	CONDITIONS TO ISSUANCE OF GRANTS FOR PUBLIC FACILITIES IN REDEVELOPMENT AREAS
USC,42-2507	FISCAL LAW RE APPROPRIATIONS AUTHORIZED FOR MAKING GRANTS FOR PUBLIC FACILITIES

KEYWORD	
USC,42-2507	ILITIES RE REDEVELOPMENT AREAS
USC,42-2507	LIMITATION ON AMOUNT OF GRANT ISSUED FOR PUBLIC FACILITIES IN REDEVELOPMENT AREAS
USC,42-2507	PROHIBITION AGAINST ASSISTANCE TO PUBLIC FACILITIES IN REDEVELOPMENT RE PUBLIC UTILITIES
USC,42-2507	SEC COMMERCE MAY GRANT FOR CONSTRUCTION OF PUBLIC FACILITIES RE AREA REDEVELOPMENT
USC,42-2507	SEC COMMERCE MAY MAKE GRANTS FOR PUBLIC FACILITIES IN REDEVELOPMENT AREAS
USC,42-2509	SEC COMMERCE MAY FURNISH TO PROCUREMENT AGENCIES LISTS OF FIRMS RE UNEMPLOYMENT AREAS
USC,42-2509	SEC COMMERCE SHALL FURNISH AGENCIES THE NAMES OF FIRMS LOCATED IN REDEVELOPMENT AREAS
USC,42-2510	AUTHORITY SEC COMMERCE TO CONTRACT FOR TECHNICAL ASSISTANCE FOR REDEVELOPMENT AREAS
USC,42-2510	AUTHORITY SEC COMMERCE TO CONTRACT FOR TECHNICAL ASSISTANCE RE EXCESSIVE UNEMPLOYMENT
USC,42-2510	AUTHORITY SEC COMMERCE TO CONTRACT FOR TECHNICAL ASSISTANCE RE UNDEREMPLOYMENT
USC,42-2511	AUTHORITY SEC COMMERCE TO ACQUIRE PROPERTY RE AREA REDEVELOPMENT
USC,42-2511	AUTHORITY SEC COMMERCE TO ACQUIRE REAL & PERSONAL PROPERTY FOR REDEVELOPMENT AREAS
USC,42-2511	AUTHORITY SEC COMMERCE TO CONTRACT FOR ATTORNEY SERVICES RE AREA REDEVELOPMENT
USC,42-2511	AUTHORITY SEC COMMERCE TO CONTRACT FOR TEMPORARY EXPERTS & CONSULTANTS RE REDEVELOPMENT PROJ
USC,42-2511	AUTHORITY SEC COMMERCE TO DISPOSE OF CONTRACT, CLAIM OR PERSONAL PROPERTY RE SECRETARIES LOANS
USC,42-2511	AUTHORITY SEC COMMERCE TO MAKE REDEVELOPMENT PROJECT REGULATIONS
USC,42-2511	AUTHORITY SEC COMMERCE TO TAKE ANY ACTIONS NECESSARY INCLUDING ATTORNEY SERVICES - REDEVELOPMENT
USC,42-2511	SEC COMMERCE MAY ACQUIRE HAZARD INSURANCE WITHOUT REGARD TO 41-5 RE AREA REDEVELOPMENT
USC,42-2511	SEC COMMERCE MAY PROCURE EXPERT & CONSULTANT SERVICES WITHOUT ADVERTISING RE AREA REDEVELOPMENT.
USC,42-2511	41-5 INAPPLICABLE RE PROPERTY OBTAINED BY SEC COMMERCE FOR REDEVELOPMENT PROJECT LOANS
USC,42-2513	SEC HEW TO CONTRACT FOR OCCUPATIONAL TRAINING FACILITIES RE REDEVELOPMENT PROJECTS
USC,42-2513&2514	FISCAL LAW RE REDEVELOPMENT PROJECTS
USC,42-2516	CONFLICT-OF-INTEREST PROVISION RE AREA REDEVELOPMENT GRANTS MADE BY SEC COMMERCE
USC,42-2518	APPLICABILITY DAVIS-BACON ACT TO GRANTS FOR AREA REDEVELOPMENT MADE BY SEC COMMERCE
USC,42-2519	REPORT TO CONGRESS BY SEC COMMERCE RE GOVT CONTRACTS PLACED WITH FIRMS IN REDEVELOPMENT AREAS
USC,42-2522	GRANTEES SHALL KEEP RECORDS RE AREA REDEVELOPMENT PROGRAMS OF DEPT COMMERCE
USC,42-2522	SEC COMMERCE MAY REQUIRE AUDIT RECORDS OF FINANCIAL ASSISTANCE FOR REDEVELOPMENT PROJECTS
USC,42-2522	SEC COMMERCE & COMP GEN AUTHORITY TO CONDUCT AUDIT OF REDEVELOPMENT PROJECTS
USC,42-2523	AUTHORITY SEC COMMERCE TO CONDUCT RESEARCH ON UNEMPLOYMENT & REPORT RE REDEVELOPMENT PROJECTS
USC,42-2523	COMP GEN SHALL HAVE ACCESS TO GRANTEE BOOKS & RECORDS RE AREA REDEVELOPMENT PROGRAMS
USC,42-2523	SEC COMMERCE SHALL HAVE ACCESS TO GRANTEE BOOKS & RECORDS RE AREA REDEVELOPMENT PROGRAMS
USC,42-2525	OBSOLETE - SEE 42-2501-2525
USC,42-2572	AUTHORITY SEC LABOR TO CONDUCT RESEARCH ON MANPOWER REQUIREMENTS
USC,42-2572	AUTHORITY SEC LABOR TO CONTRACT FOR RESEARCH RE MANPOWER REQUIREMENTS DEVELOPMENT & UTILIZATION
USC,42-2572	SEC LABOR SHALL SEEK ADVICE OF CONSULTANTS RE STANDARDS GOVERNING ADEQUACY OF CERTAIN PROPOSALS
USC,42-257	SURGEON GENERAL MAY PROVIDE FOR CARE & TREATMENT OF CONVICTED NARCOTICS ADDICTS
USC,42-2582	SEC LABOR MAY PROVIDE FOR SELECTING & COUNSELING FOR MANPOWER OCCUPATIONAL TRAINING
USC,42-2584	AUTHORITY SEC LABOR TO SECURE ADOPTION OF ON THE JOB TRAINING BY PRIVATE SECTOR FOR OCCUPATIONAL
USC,42-25	AUTHORITY SEC LABOR TO MAKE GRANTS FOR RESEARCH RE MANPOWER REQUIREMENTS DEVELOPMENT & UTILIZATION
USC,42-2601	AUTHORITY SEC HEW TO CONTRACT WITH PUBLIC OR PRIVATE EDUCATIONAL RE MANPOWER TRAINING
USC,42-2601	AUTHORITY SEC HEW TO MAKE AGREEMENTS WITH STATES & VOCATIONAL AGENCIES - OCCUPATIONAL TRAINING
USC,42-2616	AUTHORITY SEC HEW TO CONTRACT RE MANPOWER DEVELOPMENT & TRAINING PROGRAMS
USC,42-2616	AUTHORITY SEC HEW TO MAKE ADVANCE PAYMENTS RE MANPOWER DEVELOPMENT & TRAINING PROGRAMS
USC,42-2616	AUTHORITY SEC LABOR TO CONTRACT RE MANPOWER DEVELOPMENT & TRAINING PROGRAMS
USC,42-2616	AUTHORITY SEC LABOR TO MAKE ADVANCE PAYMENTS RE MANPOWER DEVELOPMENT & TRAINING PROGRAMS
USC,42-2616	AUTHORITY SEC LABOR & SEC HEW TO MAKE CONTRACTS, ADVANCE PAYMENTS RE MANPOWER PROGRAMS
USC,42-2619	AUTHORITY SEC HEW TO CONTRACT FOR TRAINING & TECHNICAL ASSISTANCE RE MANPOWER TRAINING PROGRAMS
USC,42-261	AUTHORITY SEC LABOR TO CONTRACT FOR TRAINING & TECHNICAL ASSISTANCE RE MANPOWER TRAINING PROGRAMS
USC,42-2625	AUTHORITY SEC LABOR TO MAKE GRANTS TO STATES TO IMPROVE EMPLOYABILITY OF DISADVANTAGED PERSONS
USC,42-2626	CONDITIONS FOR ISSUING GRANTS TO IMPROVE EMPLOYABILITY OF DISADVANTAGED PERSONS
USC,42-263D	SEC HEW MAY CONTRACT WITHOUT REGARD TO USC,31-529 & USC,41-5
USC,42-263D	SEC HEW MAY ESTABLISH ELECTRONIC PRODUCTION RADIATION CONTROL PROGRAM
USC,42-263D	SEC HEW MAY MAKE AVAILABLE RESULTS OF RESEARCH RE ELECTRONIC PRODUCT RADIATION
USC,42-263D	SEC HEW MAY MAKE GRANTS RE ELECTRONIC PRODUCT RADIATION
USC,42-263D	SEC HEW MAY PROCURE ELECTRONIC PRODUCTS FOR TESTING & SELL OR OTHERWISE DISPOSE OF SUCH PRODUCT
USC,42-263D	SEC HEW SHALL DEVELOP & ADMINISTER PERFORMANCE STANDARDS FOR ELECTRONIC RADIATION PRODUCTS
USC,42-263D	SEC HEW SHALL SUPPORT R&D, TRAINING & OPERATIONS RE MINIMIZING ELECTRONIC PRODUCT RADIATION
USC,42-263D	SEC HEW & COMP GEN MAY AUDIT BOOKS & RECORDS RE CERTAIN GRANTS RE ELECTRONIC PRODUCT RADIATION
USC,42-263E	SEC HEW MAY CONDUCT STUDIES & REPORT RESULTS TO CONGRESS RE ELECTRONIC PRODUCT RADIATION
USC,42-263F	SEC HEW MAY EXEMPT AGENCIES FROM REGULATIONS CONTROLLING STANDARDS FOR ELECTRONIC PRODUCTS
USC,42-263F	SEC HEW SHALL PRESCRIBE REGULATIONS FOR PERFORMANCE STANDARDS FOR ELECTRONIC PRODUCT RADIATION
USC,42-263I	ILLEGAL FOR MANUFACTURER TO PLACE IN COMMERCE OR IMPORT ELECTRONIC PRODUCTS VIOLATING REGS.
USC,42-263I	SEC HEW MAY EXEMPT NON-COMPLYING ELECTRONIC PRODUCT FROM IMPORT & TRANSFER PROHIBITION
USC,42-2642	AUTHORITY OF PRESIDENT TO MAKE REGULATIONS FOR PUBLIC WORKS ACCELERATION
USC,42-2642	AUTHORITY PRESIDENT TO INITIATE & ACCELERATE CERTAIN FEDERAL STATE & LOCAL PUBLIC WORKS
USC,42-2642	FISCAL LAW - APPROPRIATIONS AUTHORIZED FOR ACCELERATION OF PUBLIC WORKS PROGRAMS
USC,42-2642	GRANTS FOR PUBLIC WORKS ACCELERATION MAY BE FOR LARGER FEDERAL PERCENTAGE CONTRIBUTION
USC,42-2642	PRESIDENT MAY INITIATE & ACCELERATE PUBLIC WORKS PROJECTS IN SUBSTANTIAL UNEMPLOYMENT AREAS
USC,42-2642	RESTRICTIONS ON USE OF FUNDS FOR PUBLIC WORKS ACCELERATION PROJECTS
USC,42-2643	LIMITATION ON AUTHORITY OF PRESIDENT TO ALLOCATE FUNDS TO LOCAL PUBLIC WORKS PROJECTS
USC,42-2661A	SEC HEW MAY MAKE GRANTS TO OPERATE FACILITIES & TRAINING PROGRAMS RE DEVELOPMENTAL DISABILITIES
USC,42-2661	LIMITATION ON GRANT AMOUNT RE UNIVERSITY MENTAL RETARDATION FACILITIES
USC,42-2662	DAVIS-BACON ACT APPLIES TO UNIVERSITY MENTAL RETARDATION FACILITY CONSTRUCTION GRANTS
USC,42-2662	GRANT APPLICATION PROVISIONS RE CONSTRUCTION UNIVERSITY MENTAL RETARDATION FACILITIES
USC,42-2663	GRANT LIMITATION BASED ON PERCENTAGE OF COST RE MENTAL RETARDATION FACILITY CONSTRUCTION
USC,42-2663	SEC HEW MAY MAKE ADVANCE PAYMENTS RE MENTAL RETARDATION FACILITY CONSTRUCTION GRANTS
USC,42-2675	APPLICATION & APPROVAL OF CONSTRUCTION PROJECTS RE STATE MENTAL RETARDATION FACILITY GRANTS
USC,42-2675	DAVIS-BACON ACT APPLIES TO GRANTS FOR CONSTRUCTION OF STATE MENTAL RETARDATION FACILITIES
42-2678A	CONDITIONS FOR GRANTS FOR PROFESSIONAL SERVICES RE COMMUNITY MENTAL RETARDATION FACILITIES

KEYWORD	
USC,42-2678C	SEC HEW TO MAKE REGULATIONS RE GRANT ELIGIBILITY FOR COMMUNITY MENTAL RETARDATION FACILITIES
USC,42-2678	SEC HEW MAY MAKE GRANTS FOR PROFESSIONAL SERVICES RE COMMUNITY MENTAL RETARDATION FACILITIES
USC,42-2688L1-1	AUTHORITY SEC HEW TO MAKE GRANTS RE DRUG ABUSE EDUCATION
USC,42-2684	STATE PLAN REQUIREMENTS RE GRANTS FOR CONSTRUCTION OF COMMUNITY MENTAL HEALTH CENTERS
USC,42-2685(A)	AUTHORITY SEC HEW TO APPROVE CONSTRUCTION OF COMMUNITY MENTAL HEALTH & STATE PLAN
USC,42-2685	CONTENTS OF CONSTRUCTION PROJECTS APPLICATIONS RE GRANTS FOR COMMUNITY MENTAL HEALTH CENTERS
USC,42-2685	DAVIS-BACON ACT APPLIES TO GRANTS FOR CONSTRUCTION OF COMMUNITY MENTAL HEALTH CENTERS
USC,42-2686	CONDITIONS FOR WITHHOLDING PAYMENTS RE NONCOMPLIANCE WITH GRANT PROVISIONS MENTAL HEALTH CENTERS
USC,42-2686	SEC HEW MAY WITHHOLD GRANT PAYMENTS FOR DAVIS-BACON ACT VIOLATIONS RE MENTAL HEALTH CENTERS
USC,42-2688A	APPLICATIONS & CONDITIONS FOR GRANT APPROVAL RE HEW GRANTS FOR COMMUNITY MENTAL HEALTH CENTERS
USC,42-2688B	SEC HEW MAY MAKE ADVANCE PAYMENTS RE GRANTS FOR COMMUNITY MENTAL HEALTH CENTERS
USC,42-2688C	SEC HEW SHALL MAKE REGULATIONS RE GRANTS FOR COMMUNITY MENTAL HEALTH CENTERS
USC,42-2688F	CONDITIONS OF GRANT APPROVAL RE CONSTRUCTION OF ALCOHOLIC REHABILITATION FACILITIES
USC,42-2688F	DAVIS-BACON ACT APPLIES TO GRANTS FOR CONSTRUCTION OF ALCOHOLIC REHABILITATION FACILITIES
USC,42-2688G	SEC HEW MAY MAKE GRANTS FOR STAFFING ALCOHOLIC REHABILITATION FACILITIES
USC,42-2688H	SEC HEW MAY MAKE GRANTS FOR CONSTRUCTION OF SPECIALIZED ALCOHOLIC REHABILITATION FACILITIES
USC,42-2688J-1	SEC HEW MAY MAKE GRANTS TO DEVELOP TRAINING PROGRAMS FOR TREATMENT OF ALCOHOLISM
USC,42-2688J	ADVANCE PAYMENTS RE GRANTS FOR CONSTRUCTION OF SPECIALIZED ALCOHOLIC REHABILITATION FACILITIES
USC,42-2688K	DAVIS-BACON ACT APPLIES TO GRANTS RE NARCOTIC ADDICT REHABILITATION FACILITIES
USC,42-2688K	SEC HEW MAY MAKE GRANTS RE COMPENSATION TECHNICAL PERSONNEL NARCOTIC ADDICT FACILITIES
USC,42-2688K	SEC HEW MAY MAKE GRANTS RE CONSTRUCTION OF NARCOTIC ADDICT REHABILITATION FACILITIES
USC,42-2688L-1	AUTHORITY SEC HEW TO MAKE CONTRACTS RE DRUG ABUSE EDUCATION
USC,42-2688L	SEC HEW MAY MAKE GRANTS TO DEVELOP TRAINING PROGRAMS RE PREVENTION TREATMENT NARCOTIC ADDICTS
USC,42-2688N-1	SEC HEW MAY GRANT RE PROGRAMS FOR TREATMENT & REHABILITATION OF NARCOTICS ADDICTS
USC,42-2688N	SEC HEW MAY MAKE ADVANCE PAYMENTS RE NARCOTIC ADDICT REHABILITATION FACILITY GRANTS
USC,42-2688R	SEC HEW MAY MAKE GRANTS FOR CONSULTING SERVICES RE CERTAIN TREATMENT FACILITIES
USC,42-2688T	MENTAL HEALTH COUNCIL APPROVAL REQUIRED FOR GRANTS OF PROFESSIONAL PERSONNEL FOR CENTERS
USC,42-2688U	GRANTS FOR COMPENSATION OF PROFESSIONAL PERSONNEL FOR MENTAL HEALTH SERVICES FOR CHILDREN
USC,42-2688U	GRANTS FOR CONSTRUCTION OF FACILITIES FOR MENTAL HEALTH SERVICES FOR CHILDREN
USC,42-2688U	SEC HEW MAY MAKE GRANTS FOR CONSTRUCTION RE MENTAL HEALTH & DAVIS-BACON ACT APPLIES
USC,42-2688V	SEC HEW MAY MAKE GRANTS FOR TRAINING PROGRAMS RE CHILDREN'S MENTAL HEALTH SERVICES
USC,42-2688	DAVIS-BACON ACT APPLIES TO GRANTS FOR SPECIALIZED ALCOHOLIC REHABILITATION FACILITY CONSTRUCTION
USC,42-2688	GRANT TERMS & AMOUNTS FOR PERSONNEL COMPENSATION RE COMMUNITY MENTAL HEALTH CENTERS
USC,42-2688	SEC HEW MAY MAKE GRANTS FOR PERSONNEL COMPENSATION RE COMMUNITY MENTAL HEALTH CENTERS
USC,42-2696	LIMITATION OF FEDERAL CONTROL OVER ADMINISTRATION OF MENTAL HEALTH FACILITIES FUNDED BY GRANTS
USC,42-26	AUTHORITY SEC HEW TO MAKE GRANTS FOR TRAINING & TECHNICAL ASSISTANCE RE MANPOWER TRAINING PROGRAMS
USC,42-26	SUBMISSION REQUIREMENTS FOR STATE PLANS RE CONSTRUCTION GRANTS STATE MENTAL RETARDATION FACILITIES
USC,42-2718	DIRECTOR OEO MAY MAKE AGREEMENTS TO ASSIST IN OPERATION & ADMINISTRATION OF STATE JOB CORP
USC,42-2724	DIRECTOR OEO MAY CONTRACT FOR EVALUATION OF JOB CORP PROGRAMS
USC,42-2733	DIRECTOR OEO MAY MAKE AGREEMENTS FOR PAYMENT FOR STATE OR LOCAL WORK TRAINING PROGRAMS
USC,42-2734	DIRECTOR OEO MAY PROVIDE FOR TESTING & COUNSELING OF YOUTH THROUGH NON-PROFIT ORGAN.
USC,42-2734	WORK TRAINING WHEN ACCOMPLISHED THROUGH NON-PROFIT ORGANIZATIONS SEE
USC,42-2736	OBSOLETE SEE ALSO 2732 AND 2736
USC,42-2752	DIRECTOR OEO MAY DISTRIBUTE ALLOTMENTS FOR GRANTS FOR WORK STUDY PROGRAM
USC,42-2753	COMMISSIONER EDUCATION MAY GRANT TO INSTITUTIONS OF HIGHER LEARNING RE WORK-STUDY PROGRAMS
USC,42-2753	DIRECTOR OEO MAY MAKE GRANTS TO HIGHER EDUCATION INSTITUTIONS TO ASSIST WORK STUDY PROGRAMS
USC,42-2754	CONDITIONS FOR GRANTS FOR WORK STUDY PROGRAMS
USC,42-2756	DIRECTOR OEO MAY ESTABLISH CRITERIA FOR DISTRIBUTION OF FINANCIAL ASSISTANCE RE WORK STUDY
USC,42-276	SEC HEW ACTING THROUGH NATIONAL LIBRARY OF MEDICINE MAY ACQUIRE LIBRARY MATERIALS
USC,42-2784	OBSOLETE SEE ALSO 2783-2789
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USC,42-280B-11	SEC HEW & COMP GEN MAY AUDIT RECIPIENTS OF GRANTS RE MEDICAL LIBRARY FACILITIES
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USC,42-280B-3	FISCAL LAW RE GRANTS FOR CONSTRUCTION OF MEDICAL LIBRARY FACILITIES
USC,42-280B-3	GRANTS FOR CONSTRUCTION OF MEDICAL LIBRARY FACILITIES
USC,42-280B-4	FISCAL LAW RE GRANTS FOR TRAINING IN MEDICAL LIBRARY SCIENCCES
USC,42-280B-5	FISCAL LAW RE GRANTS FOR COMPILATION OR WRITING OF CONTRIBUTIONS RELATING TO HEALTH SCIENCES
USC,42-280B-5	FISCAL LAW RE GRANTS OR CONTRACTS FOR R&D IN MEDICAL LIBRARY SCIENCE & RELATED FIELDS
USC,42-280B-6	ADVANCE PAYMENTS PERMITTED RE GRANTS FOR R&D IN MEDICAL LIBRARY SCIENCE & RELATED FIELDS
USC,42-280B-6	FISCAL LAW RE CONTRACTS & GRANTS FOR R&D IN MEDICAL LIBRARY SCIENCE & RELATED FIELDS
USC,42-280B-7	GRANTS FOR ESTABLISHING, EXPANDING & IMPROVING MEDICAL LIBRARY OR RELATED RESOURCES
USC,42-280B-8	FISCAL LAW RE GRANTS FOR ESTABLISHMENT OF REGIONAL MEDICAL LIBRARIES
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USC,42-280B-9	FISCAL LAW RE GRANTS OR CONTRACTS TO SUPPORT BIOMEDICAL SCIENTIFIC PUBLICATIONS
USC,42-280B-9	GRANTS TO SUPPORT BIOMEDICAL SCIENTIFIC PUBLICATIONS
USC,42-2823	DIRECTOR OEO MAY MAKE GRANTS FOR TECHNICAL ASSISTANCE RE COMMUNITY-ACTION PROGRAMS
USC,42-2825	DIRECTOR OEO MAY CONTRACT OR GRANT RE PILOT / DEMONSTRATION COMMUNITY ACTION PROGRAMS
USC,42-2826	DIRECTOR OEO MAY CONTRACT FOR INDEPENDENT EVALUATION OF COMMUNITY ACTION PROGRAMS OR PROJECTS
USC,42-2826	DIRECTOR OEO SHALL CONTRACT FOR EVALUATION OF CERTAIN ACTIONS UNDER COMMUNITY ACTION PROGRAMS
USC,42-2826	DIRECTOR OEO SHALL ESTABLISH STANDARDS FOR PROGRAM EFFECTIVENESS EVALUATION
USC,42-2826	REPORT TO CONGRESS RE EVALUATION OF CERTAIN OEO COMMUNITY ACTION PROGRAMS
USC,42-2834	OEO COMMUNITY ACTION PROGRAM CONTRACTS GRANTS MUST BE APPROVED BY GOVERNOR OF STATE
USC,42-2835	AUTHORITY DIRECTOR OEO TO AUDIT CONTRACTS GRANTS RE COMMUNITY ACTION PROGRAMS
USC,42-2836	RESTRICTION ON OEO EMPLOYEES SERVING AS OFFICIALS OF OEO GRANTEES OR CONTRACTORS
USC,42-2842	DIRECTOR OEO MAY RENOVATE & DISPOSE OF PROPERTIES ACQUIRED RE OEO LOANS & GUARANTEES
USC,42-284	NATIONAL CANCER ADVISORY COUNCIL TO REVIEW & APPROVAL APPLICATIONS FOR GRANTS
USC,42-2864	DIRECTOR OEO MAY CONTRACT FOR PROJECT EVALUATION RE MIGRANT WORKER TRAINING
USC,42-2864	DIRECTOR OEO MAY MAKE CONTRACTS GRANTS FOR TECHNICAL ASSISTANCE RE MIGRANT WORKER TRAINING
USC,42-287C	NATIONAL ADVISORY HEART COUNCIL TO REVIEW & APPROVE APPLICATIONS FOR GRANTS

KEYWORD	
USC,42-288C	NATIONAL ADVISORY DENTAL RESEARCH COUNCIL MAY REVIEW AND APPROVE GRANTS
USC,42-289A	SURGEON GENERAL MAY ESTABLISH INSTITUTE FOR RESEARCH OF CERTAIN DISEASES
USC,42-289D	SURGEON-GENERAL MAY ESTABLISH INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT
USC,42-289E	SURGEON GENERAL MAY ESTABLISH AN INSTITUTE FOR GENERAL MEDICAL SCIENCES
USC,42-289G	SURGEON-GENERAL MAY MAKE GRANTS RE CHILD HEALTH AND HUMAN DEVELOPMENT
USC,42-289I	SEC HEW MAY ESTABLISH NATIONAL EYE INSTITUTE
USC,42-289K	SEC HEW MAY MAKE GRANTS RE EYE DISEASES
USC,42-2906C	LIMITATION ON OEO FINANCIAL ASSISTANCE RE SMALL BUSINESSES
USC,42-291G	SURGEON-GENERAL MAY WITHOLD PAYMENTS FOR NONCOMPLIANCE RE GRANTS FOR MEDICAL FACILITIES
USC,42-291M	LIMITATION ON INTERFERENCE BY FEDERAL EMPLOYEE RE MEDICAL FACILITIES RECEIVING GRANTS
USC,42-292B	NATIONAL ADVISORY COUNCIL ON HEALTH RESEARCH FACILITIES MAY REVIEW AND APPROVE GRANTS
USC,42-2942	AUTHORITY DIRECTOR OEO TO COMPLETE RENOVATE & MODERNIZE CERTAIN PROPERTIES
USC,42-2942	AUTHORITY DIRECTOR OEO TO EMPLOY EXPERTS & CONSULTANTS
USC,42-2942	AUTHORITY DIRECTOR OEO TO EXPEND FUNDS FOR PRINTING & BINDING WITHOUT REGARD TO OTHER LAWS
USC,42-2942	AUTHORITY DIRECTOR OEO TO EXPEND FUNDS FOR RENT & REPAIR OF BLDGS WITHOUT REGARD TO OTHER LAWS
USC,42-2942	AUTHORITY DIRECTOR OEO TO MAKE ADVANCE PAYMENTS
USC,42-2942	AUTHORITY DIRECTOR OEO TO MAKE CONTRACTS & GRANTS GENERALLY
USC,42-2942	AUTHORITY DIRECTOR OEO TO MAKE RULES & REGULATIONS
USC,42-2942	DIRECTOR OEO MAY EMPLOY EXPERTS, CONSULTANTS
USC,42-2942	DIRECTOR OEO MAY EXPEND FUNDS FOR BUILDING MAINTAINANCE
USC,42-2946	PUBLIC ANNOUNCEMENT REQUIRED RE CERTAIN INFORMATION ON OEO RESEARCH & DEMONSTRATION CONTRACTS
USC,42-2946	REPORT TO CONGRESS BY COMP GEN RE OEO COMPLIANCE PUBLIC ANNOUNCEMENT REQUIREMENTS FOR CONTRACTS
USC,42-2947	DAVIS-BACON ACT APPLIES TO CONSTRUCTION PROJECTS FEDERALLY ASSISTED BY OEO
USC,42-2947	DEFINITION OF FEDERAL ASSISTANCE UNDER OEO INCLUDES CERTAIN CONTRACTS & EXCLUDES OTHERS
USC,42-2947	PREVAILING WAGE MUST BE PAID WORKERS ON FEDERALLY ASSISTED PROJECTS RE OEO PROGRAMS
USC,42-294	AUTHORITY DIRECTOR OEO TO ACCEPT VOLUNTARY UNCOMPENSATED SERVICES WITHOUT REGARD TO USC,31-665(B)
USC,42-295F-2	- REGULATIONS FOR GRANTS FOR TRAINING & EDUCATION OF HEALTH PROFESSIONS PERSONNEL
USC,42-295F	APPLICATIONS FOR GRANTS RE TRAINING OF HEALTH PROFESSIONS PERSONNEL
USC,42-295F	FISCAL LAW RE INSTITUTIONAL GRANTS FOR TRAINING OF HEALTH PROFESSIONS PERSONNEL
USC,42-295H-1	FISCAL LAW RE GRANTS TO IMPROVE QUALITY OF TRAINING CENTERS FOR ALLIED HEALTH PROFESSIONS
USC,42-295H-1	REGULATIONS RE GRANTS TO IMPROVE QUALITY OF TRAINING CENTERS FOR ALLIED HEALTH PROFESSIONS
USC,42-295H	FISCAL LAW RE GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES OF ALLIED HEALTH PROFESSIONS
USC,42-295H	FISCAL LAW RE GRANTS TO DEVELOP METHODS FOR TRAINING OF HEALTH TECHNOLOGISTS
USC,42-295H	REGULATIONS RE GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES OF ALLIED HEALTH PROFESSIONS
USC,42-295H	SEC HEW & COMP-GEN MAY AUDIT EXAMINE BOOKS OF GRANT RECIPIENTS RE HEALTH PROFESSIONS TRAINING
USC,42-295H	SURGEON GENERAL MAY REQUIRE RECORDS KEEPING BY GRANT RECIPIENTS RE HEALTH PROFESSIONS TRAINING
USC,42-296F	APPLICATIONS RE GRANTS FOR NURSE TRAINING
USC,42-296G	FISCAL LAW RE GRANTS FOR NURSE TRAINING
USC,42-296I	DIRECTOR OEO MAY DETERMINE IF RECIPIENT MEETS POVERTY CRITERIA RE OEO PROGRAMS
USC,42-298C	SEC HEW MAY CONTRACT TO ENCOURAGE UTILIZATION OF NURSING EDUCATIONAL TALENT
USC,42-299A	FISCAL LAW RE GRANTS OR CONTRACTS FOR RESEARCH, TRAINING, & DEMONSTRATION IN CERTAIN DISEASES
USC,42-299A	REGULATIONS RE GRANTS FOR RESEARCH, TRAINING & DEMONSTRATIONS IN CERTAIN DISEASES
USC,42-299D	CONTRACTORS EMPLOYEES WORKING ON CONSTRUCTION AIDED BY CERTAIN GRANT PAID LAW DAVIS-BACON
USC,42-299D	REGULATIONS RE GRANTS FOR CONSTRUCTION & EQUIPMENT OF REGIONAL MEDICAL FACILITIES
USC,42-299I	SEC HEW MAY MAKE CERTAIN GRANTS OR CONTRACTS RE RESEARCH, TRAINING RE CERTAIN DISEASES
USC,42-2992	RECORD KEEPING MAY BE REQUIRED OF RECIPIENTS OF GRANTS FOR REAEARCH ETC RE DISEASES
USC,42-2992	SEC HEW & COMP GEN MAY AUDIT RECORDS OF GRANT RECIPIENTS RE DISEASE DEMONSTRATIONS
USC,42-2	AEC SHALL PRESCRIBE CONDITIONS & QUALIFICATIONS RE LICENSES FOR OPERATION OF UTILIZATION FACILITIES
USC,42-2	AUTHORITY NASA TO SETTLE CLAIMS FOR 5,000 OR LESS FOR INJURY RESULTING FROM CERTAIN CONDUCT OF NASA
USC,42-2	AUTHORIZATION OF APPROPRIATIONS RE GRANTS FOR CONSTRUCTION UNIVERSITY MENTAL RETARDATION FACILITIES
USC,42-2	SEC HEW MAY MAKE ADVANCE PAYMENTS RE GRANTS FOR SERVICES IN COMMUNITY MENTAL RETARDATION FACILITIES
USC,42-3021	GRANTS FOR STATE & COMMUNITY PROGRAMS FOR AGED EXCLUDES CONSTRUCTION COSTS EXCEPT MINOR REPAIRS
USC,42-3024A	SEC HEW MAY MAKE GRANTS CONTRACTS WITH STATE AGENCIES RE PROGRAMS FOR AGED
USC,42-3025	SEC HEW MAY MAKE ADVANCE PAYMENTS RE GRANTS CONTRACTS FOR PROGRAMS FOR AGED
USC,42-3031	SEC HEW MAY MAKE GRANTS CONTRACTS RE R&D PROJECTS RE PROGRAMS FOR AGED
USC,42-3032	ADVANCE PAYMENTS ALLOWED RE GRANT CONTRACTS FOR R&D PROGRAMS FOR AGED
USC,42-3032	CONSULTATION BY SEC HEW WITH STATE AGENCY PRIOR TO CONTRACT GRANT AWARD RE R&D PROGRAMS FOR AGED
USC,42-3032	REQUIREMENT FOR RECIPIENT OF GRANT CONTRACT TO CONTRIBUTE MONEY/OTHER ITEMS RE PROGRAMS FOR AGED
USC,42-3041	SEC HEW MAY MAKE GRANT CONTRACTS RE TRAINING PROGRAMS FOR AGED
USC,42-3042	GRANT CONTRACT RECIPIENT TO CONTRIBUTE MONEY/OTHER ITEMS RE TRAINING PROGRAMS FOR AGED
USC,42-3043	REPORT TO CONGRESS RE NEED FOR TRAINED PERSONNEL STUDY CONTRACT RESULTS
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USC,42-3044B	ADVANCE PAYMENTS ALLOWABLE ON GRANTS CONTRACTS RE FOSTER GRANDPARENT PROGRAM
USC,42-3044B	GRANTS CONTRACTS BY HEW RE FOSTER GRANDPARENT PROGRAM
USC,42-3044	ADVANCE PAYMENTS ALLOWABLE ON GRANTS CONTRACTS RE RETIRED SENIOR VOLUNTEER PROGRAM
USC,42-3044	CONDITIONS OF AWARD FOR GRANTS CONTRACTS RE RETIRED SENIOR VOLUNTEER PROGRAM
USC,42-3044	GRANTS CONTRACTS BY HEW RE RETIRED SENIOR VOLUNTEER PROGRAM
USC,42-3102	GRANTS CONTRACTS BY SEC HUD RE WATER & SEWER FACILITIES
USC,42-3102	PROJECT REQUIREMENTS PRIOR TO MAKING OF GRANTS FOR WATER & SEWER FACILITIES BY SEC HUD
USC,42-3103	GRANTS FOR NEIGHBORHOOD FACILITIES TO BE MADE BY SEC HUD AFTER CERTAIN DETERMINATIONS ARE MADE
USC,42-3104	SEC HUD MAY MAKE GRANTS TO FINANCE ACQUISITION OF LAND FOR PUBLIC PURPOSES
USC,42-3105	AUTHORITY SEC HUD TO MAKE ADVANCE PAYMENTS RE CERTAIN GRANTS
USC,42-3107	DAVIS-BACON ACT APPLIES TO CERTAIN GRANTS MADE BY SEC HUD
USC,42-3131	GRANTS FOR PUBLIC WORKS & DEVELOPMENT FACILITIES MAY BE MADE BY SEC COMMERCE
USC,42-3132	GRANTS TO AREAS OF SUBSTANTIAL UNEMPLOYMENT FOR ASSISTANCE MAY BE MADE BY SEC COMMERCE
USC,42-3135	RESTRICTION ON GRANTS FOR SEWER & WASTE DISPOSAL FACILITIES RE WATER QUALITY STANDARDS
USC,42-3151	CONTRACTS FOR TECHNICAL ASSISTANCE RESEARCH & INFORMATION RE UNEMPLOYMENT & UNDEREMPLOYMENT
USC,42-3151	GRANTS FOR TECHNICAL ASSISTANCE, RESEARCH & INFORMATION RE UNEMPLOYMENT & UNDEREMPLOYMENT
USC,42-3151	SEC COMMERCE MAY MAKE GRANTS CONTRACTS FOR DEMONSTRATION PROJECTS RE REGIONAL DEVELLOPMENT

KEYWORD	
USC,42-3151	SEC COMMERCE TO GIVE TO GOVT AGENCIES NAMES OF FIRMS IN RE DEVELOPMENT AREAS DESIRING BUSINESS
USC,42-3185	SEC COMMERCE MAY MAKE GRANTS CONTRACTS RE TECHNICAL & PLANNING ASSISTANCE FOR REGIONAL PLANNING
USC,42-3186	REGIONAL ACTION PLANNING COMMISSION AUTHORITY TO CONTRACT
USC,42-3211	AUTHORITY SEC COMMERCE TO ACQUIRE CERTAIN PROPERTY
USC,42-3212	ASSISTANCE RE PUBLIC WORKS & ECONOMIC DEVELOPMENT BY DEPT COMMERCE SHALL NOT IMPEDE COMPETITION
USC,42-3222	DAVIS-BACON ACT APPLIES TO PUBLIC WORKS & ECONOMIC DEVELOPMENT PROJECTS OF DEPT OF COMMERCE
USC,42-3250	ADVANCE PAYMENTS ALLOWED ON GRANTS FOR HEW SOLID WASTE DISPOSAL PROGRAM
USC,42-3253	CONSTRUCTION GRANTS & CONTRACTS BY HEW RE SOLID WASTE DISPOSAL
USC,42-3253	CONTRACT & GRANT PATENT POLICY PROVISIONS RE SOLID WASTE DISPOSAL
USC,42-3253	RESEARCH GRANTS & CONTRACTS BY HEW RE SOLID WASTE DISPOSAL
USC,42-3254A	SEC HEW MAY MAKE GRANTS TO STATE & LOCAL AGENCIES RE SOLID WASTE DISPOSAL
USC,42-3254B	CONDITIONS OF GRANT & FEDERAL SHARE FOR CONSTRUCTION OF SOLID WASTE DISPOSAL FACILITY
USC,42-3254B	CONDITIONS OF GRANT & FEDERAL SHARE FOR DEMONSTRATION OF A RESOURCE RECOVERY SYSTEM
USC,42-3254B	SEC HEW MAY MAKE GRANTS RE DEMONSTRATION RESOURCE RECOVERY SYSTEMS
USC,42-3254D	GRANTS & CONTRACTS RE TRAINING & EDUCATION IN SOLID WASTE DISPOSAL LIMITED
USC,42-3254D	SEC HEW MAY GRANT & CONTRACT RE TRAINING & EDUCATION IN SOLID WASTE DISPOSAL & MGT
USC,42-3256	DAVIS-BACON ACT APPLICABLE TO GRANTS FOR CONSTRUCTION RE SOLID WASTE DISPOSAL
USC,42-3256	DAVIS-BACON ACT APPLIES TO CONSTRUCTION RE HEW SOLID WASTE DISPOSAL PROGRAM
USC,42-325	RESTRICTION ON GRANTS TO PRIVATE PROFIT MAKING ORGANIZATIONS RE HEW SOLID WASTE DISPOSAL PROGRAMS
USC,42-3302	GRANT AUTHORITY HUD CITY DEMONSTRATION PROGRAMS
USC,42-3304	SEC HUD MAY MAKE GRANTS & CONTRACTS FOR PLANNING & DEVELOPING CITY DEMONSTRATIONS
USC,42-3305	GRANTS & CONTRACTS FOR ADMINISTERING CITY DEMONSTRATION PROGRAMS.
USC,42-3306	SEC HUD MAY CONTRACT FOR TECHNICAL ASSISTANCE IN CITY DEMONSTRATION PROGRAMS
USC,42-3308	FISCAL LAW RE CONTINUED AVAILABILITY OF GRANT IN AID PROGRAM FUNDS FOR CITY DEMONSTRATION
USC,42-3310	DAVIS-BACON APPLICABLE TO CERTAIN CONSTRUCTION PROJECTS RE CONTRACTS FOR CITY DEMONSTRATION
USC,42-3335	GRANT AUTHORITY HUD PLANNED AREAWIDE DEVELOPMENT INCLUDING GRANT CRITERIA & RESTRICTIONS
USC,42-3336	RESTRICTION ON AMOUNT OF GRANTS FOR HUD PLANNED AREAWIDE DEVELOPMENT PROJECTS
USC,42-3352	GRANT AUTHORITY HUD URBAN INFORMATION & TECHNICAL ASSISTANCE SERVICES
USC,42-3353	RESTRICTIONS ON GRANT AMOUNT RE HUD URBAN INFORMATION & TECHNICAL ASSISTANCE SERVICES
USC,42-3371	GRANT AUTHORITY RE HUD ASSISTANCE FOR HOUSING IN ALASKA
USC,42-3372	FOUR YEAR RESTRICTION ON CONTRACTS RE HUD R&D RE ADVANCES IN TECHNOLOGY
USC,42-3372	SEC HUD TO CONTRACT FOR R&D RE ADVANCES IN TECHNOLOGY TO HOUSING & URBAN DEVELOPMENT
USC,42-3373	SEC HUD TO CONTRACT FOR URBAN ENVIRONMENTAL STUDIES
USC,42-3535	SEC HUD MAY HIRE EXPERTS & CONSULTANTS
USC,42-3688T	CONSTRUCTION GRANTS RE COMMUNITY MENTAL HEALTH CENTERS SUBJECT TO MENTAL HEALTH COUNCIL APPR.
USC,42-3722	AUTHORITY LAW ENFORCEMENT ASSISTANCE ADMINISTRATION TO MAKE GRANTS RE STATE PLANNING AGENCY
USC,42-3722	OBSOLETE
USC,42-3724	LIMITATION ON AMOUNT OF GRANT FOR PREPARING & ADOPTING LAW ENFORCEMENT PLANS
USC,42-3733	REQUIREMENTS FOR GRANTS RE LAW ENFORCEMENT PURPOSES
USC,42-3735	AUTHORITY TO ISSUE GRANTS TO STATES NOT MEETING CERTAIN REQUIREMENTS RE LAW ENFORCEMENT
USC,42-3742	NATIONAL INSTITUTE OF LAW ENFORCEMENT & CRIMINAL JUSTICE MAY ESTABLISH RESEARCH CENTER
USC,42-3742	NATIONAL INSTITUTE OF LAW ENFORCEMENT & CRIMINAL JUSTICE MAY MAKE GRANTS FOR RESEARCH
USC,42-3743	LIMITATION & CONDITION OF GRANTS BY NATIONAL INSTITUTE OF LAW ENFORCEMENT & CRIMINAL JUSTICE
USC,42-3768	FISCAL LAW RE LAW ENFORCEMENT ASSISTANCE
USC,42-3811	GRANTS FOR PLANNING PREVENTIVE & REHABILITATIVE SERVICES RE JUVENILE DELINQUENCY PREVENTION
USC,42-3812	GRANTS FOR PLANNING PROJECTS & PROGRAMS RE JUVENILE DELINQUENCY PREVENTION & CONTROL
USC,42-3822	AUTHORITY TO MAKE GRANTS FOR REHABILITATIVE SERVICES RE JUVENILE DELINQUENCY
USC,42-3823	APPLICATIONS FOR GRANTS FOR REHABILITATIVE SERVICES RE JUVENILE DELINQUENCY
USC,42-3833	APPLICATION FOR GRANTS FOR PREVENTIVE SERVICES RE JUVENILE DELINQUENCY
USC,42-3841	GRANTS FOR REHABILITATIVE & PREVENTIVE SERVICES RE JUVENILE DELINQUENCY
USC,42-3842	AUTHORITY TO MAKE GRANTS DIRECTLY TO NON-PROFIT OR PUBLIC AGENCIES RE JUVENILE DELINQUENCY
USC,42-3843	DAVIS-BACON APPLICABLE TO CONSTRUCTION WORK RE GRANTS FOR REHABILITATION RE JUVENILE DELINQ.
USC,42-3861	AUTHORITY TO MAKE GRANTS & CONTRACTS RE TRAINING OF PERSONNEL TO WORK WITH JUVENILE DELINQUENTS
USC,42-3862	RECIPIENTS & CONDITIONS OF GRANT & CONTRACT RE TRAINING OF PERSONNEL RE JUVENILE DELINQUENTS
USC,42-3871	GRANTS & CONTRACTS FOR IMPROVING TECHNIQUES & PRACTICES RE JUVENILE DELINQUENCY PREVENTION
USC,42-3872	GRANTS & CONTRACTS FOR TECHNICAL ASSISTANCE RE JUVENILE DELINQUENCY PREVENTION
USC,42-3873	GRANTS TO STATES FOR TECHNICAL ASSISTANCE RE JUVENILE DELINQUENCY PREVENTION
USC,42-3881	PAYMENT PROCEDURE RE GRANTS & CONTRACTS RE JUVENILE DELINQUENCY PREVENTION
USC,42-3882	FISCAL LAW RE GRANTS & CONTRACTS RE JUVENILE DELINQUENCY PREVENTION & CONTROL
USC,42-3883	LIMITATIONS ON AMOUNT OF GRANT AVAILABLE TO STATE RE JUVENILE DELINQUENCY PREVENTION
USC,42-3911	SUPPLEMENTARY GRANT AUTHORITY RE HUD COMMUNITY ASSISTANCE PROJECTS
USC,42-3913	GAO MAY AUDIT BOOKS OF RECIPIENTS OF GRANTS RE NEW COMMUNITY LAND DEVELOPMENT
USC,42-3939	APPLICABILITY OF DAVIS-BACON TO LAND DEVELOPMENT PROGRAMS WITH FINANCING GURANTEED BY SEC HUD
USC,42-4081	PAYMENT PROVISION FOR CONTRACTS WITH INSURANCE COMPANIES RE FLOOD INSURANCE PROGRAM
USC,42-4081	SEC HUD MAY CONTRACT WITH INSURANCE COMPANIES WITHOUT REGARD TO USC,41-5 FOR FLOOD INSURANCE
USC,42-4082	SEC HUD MAY CONTRACT WITH INSURANCE COMPANIES TO AUDIT & ADMINISTER FLOOD INSURANCE PROGRAM
USC,42-4084	SEC HUD MAY PRESCRIBE RECORDS TO BE KEPT BY INSURANCE COMPANIES RE FLOOD INSURANCE PROGRAM
USC,42-4084	SEC HUD & COMP GEN MAY AUDIT BOOKS & RECORDS RE FLOOD INSURANCE PROGRAM
USC,42-4103	SEC HUD MAY NEGOTIATE FOR PURCHASE OF INSURED PROPERTY DAMAGED RE FLOOD INSURANCE PROGRAM
USC,42-4122	SEC HUD MAY UNDERTAKE STUDIES ON AVAILABILITY & FEASIBILITY OF INSURING AGAINST NAT. DISASTER
USC,42-4127	FISCAL LAW RE FLOOD INSURANCE PROGRAM
USC,42-4152	ADMINISTRATOR OF GSA MAY PRESCRIBE DESIGN & CONSTRUCTION STANDARDS FOR CERTAIN PUBLIC BUILDINGS
USC,42-4153	SEC HUD MAY PRESCRIBE DESIGN & CONSTRUCTION STANDARDS OF CERTAIN RESIDENTIAL STRUCTURES
USC,42-4154	SEC DEF MAY PRESCRIBE DESIGN & CONSTRUCTION STANDARDS FOR CERTAIN DOD STRUCTURES
USC,42-4155	EFFECTIVE DATE OF STANDARDS OF DESIGN & CONSTRUCTION OF PUBLIC BUILDINGS PRESCRIBED BY SECS
USC,42-4156	ADMINISTRATOR OF GSA MAY CONDUCT SURVEYS & INVESTIGATE COMPLIANCE WITH STANDARDS OF BUILDINGS
USC,42-4156	APPROPRIATE SEC MAY WAIVE OR MODIFY CERTAIN DESIGN OR CONSTRUCTION RQMTS FOR PUBLIC BUILDINGS
USC,42-4156	SEC HUD & DOD MAY SURVEY & INVESTIGATE COMPLIANCE WITH DESIGN & CONSTRUCTION STANDARDS
USC,42-4211	RECORD KEEPING REQUIRED OF STATES RECEIVING GRANT WHICH IS SUBJECT TO AUDIT BY COMP GEN / HEAD

KEYWORD	
USC,42-4343	AUTHORITY COUNCIL ON ENVIRONMENTAL QUALITY TO EMPLOY EXPERTS & CONSULTANTS
USC,42-4372(C)	AUTHORITY DIRECTOR, OFFICE OF ENVIRONMENTAL QUALITY TO EMPLOY EXPERTS & CONSULTANTS
USC,42-4372(E)	AUTHORITY DIRECTOR, OFFICE OF ENVIRONMENTAL QUALITY TO MAKE CONTRACTS
USC,42-4372(E)	DIRECTOR, OFFICE OF ENVIRONMENTAL QUALITY MAY MAKE ADVANCE PAYMENTS
USC,42-4372(E)	DIRECTOR, OFFICE OF ENVIRONMENTAL QUALITY MAY MAKE CONTRACTS WITHOUT REGARD TO 41-5
USC,42-4372	AUTHORITY DIRECTOR OFFICE ENVIRONMENTAL QUALITY TO CONTRACT WITHOUT REGARD TO USC,41-5
USC,42-4372	AUTHORITY DIRECTOR OFFICE ENVIRONMENTAL QUALITY TO EMPLOY EXPERTS & CONSULTANTS
USC,42-4372	AUTHORITY DIRECTOR OFFICE ENVIRONMENTAL QUALITY TO MAKE ADVANCE PAYMENTS FOR CONTRACTS
USC,42-4372	DUTIES & FUNCTIONS DIRECTOR OFFICE ENVIRONMENTAL QUALITY RE R&D ACTIVITIES
USC,42-4395	ADVANCE PAYMENTS PERMITTED UNDER CONTRACTS WITH CARRIERS RE HEALTH INSURANCE FOR AGED
USC,42-43	DIRECTOR OFFICE ENVIRONMENTAL QUALITY TO ASSIST & ADVISE FEDERAL AGENCIES RE ENVIRONMENTAL QUALITY
USC,42-641	SEC HEW MAY CONTRACT FOR EVALUATION & RESEARCH RE WORK / INCENTIVE PROGRAMS
USC,42-641	SEC HEW MAY MAKE RESEARCH CONTRACTS RE WORK INCENTIVE PROGRAMS
USC,42-708	SEC HEW MAY MAKE GRANTS UNTIL 30-JUNE-1972 FOR MATERNITY & INFANT CARE
USC,42-709	SEC HEW MAY MAKE GRANTS UNTIL 30-JUNE-1972 FOR HEALTH OF SCHOOL & PRESCHOOL CHILDREN
USC,42-710	GRANTS FOR DENTAL HEALTH OF CHILDREN
USC,42-711	SEC HEW MAY MAKE GRANTS FOR TRAINING PERSONNEL IN HEALTH CARE AND RELATED SERVICES
USC,42-712	SEC HEW MAY MAKE GRANTS OR CONTRACT FOR RESEARCH RE MATERNAL AND CHILD HEALTH SERVICE
USC,42-713	SEC HEW MAY MAKE GRANTS OR CONTRACT FOR EVALUATION OF MATERNAL & CHILD HEALTH SERVICES PROGRAMS
USC,42-713	SEC HEW MAY MAKE STUDIES INVESTIGATIONS TO PROMOTE MATERNAL AND CHILD HEALTH SERVICES
USC,42-729A	FISCAL LAW RE RESEARCH GRANTS AND CONTRACTS RE MATERNAL AND CHILD HEALTH SERVICES
USC,42-729A	SEC HEW MAY MAKE ADVANCE PAYMENTS UNDER RESEARCH GRANTS & CONTRACTS RE MATERNAL & CHILD HEALTH
USC,42-729	ADVANCE PAYMENTS ARE PERMITTED UNDER GRANTS FOR MATERNITY AND INFANT CARE PROJECTS
USC,42-729	FISCAL LAW RE GRANTS FOR MATERNITY AND INFANT CARE PROJECTS
USC,42-729	SEC HEW MAY MAKE GRANTS RE MATERNITY & INFANT CARE PROJECTS AND LIMITATIONS THEREON
USC,42-731	STUDIES & INVESTIGATIONS TO PROMOTE ADMINISTRATION RE GRANTS FOR MATERNAL & CHILD WELFARE
USC,42-904	SEC HEW SHALL MAKE ANNUAL REPORT TO CONGRESS RE ADMINISTRATION OF SOCIAL SECURITY
USC,42-906	ADVANCE PAYMENTS ARE PERMITTED UNDER CONTRACTS AND GRANTS FOR TRAINING PUBLIC WELFARE PERSONNEL
USC,42-906	FISCAL LAW RE GRANTS AND CONTRACTS FOR TRAINING OF PUBLIC WELFARE PERSONNEL
USC,42-	AUTHORITY SEC LABOR TO MAKE GRANTS FOR TRAINING & TECHNICAL ASSISTANCE RE MANPOWER TRAINING PROGRAMS
USC,42-	FISCAL LAW LIMITATION ON USE OF CERTAIN NEW GRANT FUNDS RE ALCOHOLIC & NARCOTIC TREATMENT FACILITIES
USC,42-	JCAE MEANS JOINT COMMITTEE ON ATOMIC ENERGY
USC,42	SEC HEW MAY WITHHOLD GRANT PAYMENTS RE DAVIS-BACON ACT VIOLATIONS UNIVERSITY MENTAL RETARD FACILITIES
USC,43A-423/424ABCD *USC,43-123*	ADMINSITRATION OF IRRIGATION PROJECTS RE PERMANENTLY UNPRODUCTIVE LAND SEE
USC,436	CRIMINAL PENALTY FOR GOVT OFFICER PERMITTING CONVICT LABOR CONTRACTS
USC,43-1068A	SEC INTERIOR SHALL HAVE LANDS HELD UNDER COLOR OF TITLE APPRAISED
USC,43-1101E	AUTHORITY SEC INTERIOR TO CONSULT WITH CERTAIN AGENCIES IN FORMULATING FOREST PRACTICE
USC,43-1185	AUTHORITY SEC INTERIOR TO NEGOTIATE WITH INDIANS FOR CESSION OF LANDS TO U.S.
USC,43-1186	AUTHORITY SEC INTERIOR TO CLASSIFY & APPRAISE UNALLOTED OR UNRESERVED LANDS WITHIN INDIAN RESER.
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USC,43-616UUUU IRRIGATION REPAYMENT CONTRACTS RE TOUCHET DIVISION, WALLA WALLA PROJECT
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USC,45-565(B)	HEALTH & SAFETY STANDARDS OF 40-333 APPLICABLE TO NATIONAL RAILROAD PASSENGER CORP
USC,45-565(E)	RAILROAD PASSENGER CORP NOT TO CONTRACT WORK PERFORMED BY RR EMPLOYEES UNDER UNION AGREEMENT
USC,45-601	FISCAL LAW RE NATIONAL RAILROAD PASSENGER CORP
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USC,45-91	OBSOLETE
USC,45-92	AUTHORITY OF SEC TREASURY TO SETTLE ACCOUNTS WITH CERTAIN RAILROADS
USC,45-92	OBSOLETE
USC,45-93	OBSOLETE
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USC,46-1119A	LIMITATION ON EXPENDITURES FROM EMERGENCY SHIP CONSTRUCTION FUND
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USC,46-1125A	AUTHORITY SEC COMMERCE TO CONSTRUCT VESSELS BY CONTRACT
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USC,46-1152	AUTHORITY FEDERAL MARITIME BOARD TO ENTER INTO CONTRACTS FOR SHIPS
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USC,46-1155	RQMT THAT CERTAIN SHIP CONTRACTS BE AWARDED BY FORMAL ADVERTISED & PERFORMED IN U.S.
USC,46-1157	/ ACQUISTTION OF USED VESSELS *USC,46-1160* AUTHORITY TO BUY USED VESSELS
USC,46-1160	AUTHORITY TO BUY USED VESSELS USC,46-1157 / ACQUISTTION OF USED VESSELS
USC,46-1176	ASSIGNMENT OF FEDERAL MARITIME BOARD CONTRACTS
USC,46-1192	AUTHORITY SEC COMMERCE TO RECONDITION VESSELS
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USC,46-1196	ADVERTISING FOR BIDS FOR SHIP CHARTERS BY SEC COMMERCE
USC,46-1197	AWARD OF SHIP CHARTER CONTRACTS BY SEC COMMERCE
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USC,50A-1215	AUTHORITY OF RENEGOTIATION BOARD TO USE METHODS TO ELIMINATE EXCESSIVE PROFITS
USC,50A-1215	AUTHORITY RENEGOTIATION BOARD TO COMMENCE PROCEEDING RE RENEGOTIATION ACT-1951
USC,50A-1215	AUTHORITY RENEGOTIATION BOARD TO ISSUE ORDER ON AMOUNT OF EXCESSIVE COSTS RE RENEGOTIATION ACT
USC,50A-1215	AUTHORITY RENEGOTIATION BOARD TO ISSUE ORDER ON METHOD OF EXCESSIVE COSTS REPAYMENT
USC,50A-1215	AUTHORITY RENEGOTIATION BOARD TO MAKE AN AGREEMENT WITH CONTRACTOR ON EXCESS PROFITS
USC,50A-1215	AUTHORITY RENEGOTIATION BOARD TO MAKE FINAL AGREEMENT WITH CONTRACTOR ON EXCESSIVE COSTS
USC,50A-1215	AUTHORITY TO BRING ACTION IN U.S. COURT FOR RECOVERY OF EXCESS PROFITS RE RENEGOTIATION ACT
USC,50A-1215	CRIMINAL SANCTIONS FOR FAILING TO FURNISH OR FURNISHING FALSE INFORMATION RE RENEGOTIATION
USC,50A-1215	INDEMNIFICATION AGAINST CLAIMS RE WITHOLDING OF MONEY PURSUANT TO RENEGOTIATION ACT-1951
USC,50A-1215	INTEREST ACCRUES ON EXCESSIVE PROFITS AT CERTAIN TIMES RE RENEGOTIATION ACT-1951
USC,50A-1215	ONE-YEAR STATUTE OF LIMITATIONS FOR COMMENCEMENT OF RENEGOTIATION PROCEEDINGS
USC,50A-1215	ONLY CONTRACTS TOTALING OVER 250,000 FOR FISCAL YEAR ARE SUBJECT TO RENEGOTIATION ACT
USC,50A-1215	ONLY SUBCONTRACTS OVER 25,000 FOR FISCAL YEAR ARE SUBJECT TO RENEGOTIATION ACT
USC,50A-1215	RENEGOTIATION ACT-1951 DOES-NOT AUTHORIZE WITHOLDING OR RECOVERING MONEY FROM ASSIGNEES
USC,50A-1215	RENEGOTIATION BOARD CONSIDERS AGGREGATE AMOUNT RECEIVED OR ACCRUED SUBJECT TO RENEGOTIATION ACT
USC,50A-1215	RENEGOTIATION BOARD MAY PRESCRIBE REGULATIONS RE FURNISHING INFORMATION RE RENEGOTIATION ACT

KEYWORD	
USC,50A-1215	RENEGOTIATION BOARD ORDER IS FINAL & CONCLUSIVE UNLESS TIMELY APPEAL IS TAKEN TO TAX COURT
USC,50A-1215	RENEGOTIATION BOARD SEE RENEGOTIATION
USC,50A-1215	REQUIREMENT OF CONTRACTOR TO FURNISH FINANCIAL INFORMATION TO RENEGOTIATION BOARD
USC,50A-1215	SURETIES ARE-NOT LIABLE FOR REPAYMENT OF EXCESS PROFITS RE RENEGOTIATION ACT-1951
USC,50A-1215	TWO-YEAR STATUTE OF LIMITATIONS FOR AGREEMENT OR ORDER TO ELIMINATE EXCESSIVE PROFITS
USC,50A-1216	RENEGOTIATION ACT IS INAPPLICABLE TO CERTAIN CONTRACTS
USC,50A-1216	RENEGOTIATION BOARD MAY EXEMPT CERTAIN CONTRACTS FROM RENEGOTIATION ACT
USC,50A-1217	APPEAL TO RENEGOTIATION BOARD RE 90-DAY STATUTE OF LIMITATIONS
USC,50A-1217	RENEGOTIATION BOARD CREATED
USC,50A-1217	RENEGOTIATION BOARD POWER CANNOT BE REDELEGATED TO PERSON RE CONTRACTS & RENEGOTIATION ACT
USC,50A-1217	RENEGOTIATION BOARD TO DETERMINE JURISDICTION OF ITS DELEGATES
USC,50A-1218A	REVIEW BY U.S. COURT OF APPEALS OF TAX COURT DECISIONS RE EXCESS PROFIT DECISIONS RE RENEGOT.
USC,50A-1218	CONTRACTOR OR SUBCONTRACTOR MAY APPEAL DECISION OF RENEGOTIATION BOARD TO TAX COURT
USC,50A-1218	DE-NOVOM PROCEEDING IN TAX COURT CONDUCTED WHEN REVIEWING RENEGOTIATION BOARD DECISIONS
USC,50A-1218	FILING A BOND WITH PETITION TO TAX COURT WILL STAY DECISION OF RENEGOTIATION BOARD
USC,50A-1218	U.S. COURT OF APPEALS HAS EXCLUSIVE JURISDICTION TO REVIEW TAX COURT RENEGOTIATION DECISIONS
USC,50A-1218	U.S. SUPREME COURT APPEAL IS POSSIBLE UPON WRIT-OF-CERTIORARI RE RENEGOTIATION ACT
USC,50A-1219	RENEGOTIATION BOARD MAY MAKE RULES & REGULATIONS RE RENEGOTIATION ACT 1951
USC,50A-1220	LIABILITY FOR COMPLIANCE WITH RENEGOTIATION ACT 1951
USC,50A-1221	ADMINISTRATIVE PROCEDURE ACT INAPPLICABLE TO FUNCTION EXERCISED UNDER RENEGOTIATION ACT
USC,50A-1222	FISCAL LAW RE RENEGOTIATION ACT
USC,50A-1223	RIGHT OF FORMER PERSONNEL OF RENEGOTIATION BOARD TO PROSECUTE CERTAIN CLAIMS AGAINST U.S.
USC,50A-1224(4)	RENEGOTIATION BOARD ANNUAL REPORT TO CONGRESS RE CHANGES IN REGULATIONS & PROCEDURES
USC,50A-1224	REQUIREMENT FOR RENEGOTIATION BOARD TO REPORT ANNUALLY TO CONGRESS RE RENEGOTIATION ACT
USC,50A-1231	ABOLISHMENT OF WAR CONTRACTS PRICE ADJUSTMENT BOARD DOES NOT AFFECT VALIDITY OF AGREEMENTS ETC
USC,50A-1231	ABOLISHMENT OF WAR CONTRACTS PRICE ADJUSTMENT BOARD DOES NOT PREJUDICE ETC ACTION OR RIGHT
USC,50A-1231	CERTAIN EXISTING PROCEDURES PRESCRIBED BY WAR CONTRACTS PRICE ADJUSTMENT BOARD STAY IN EFFECT
USC,50A-1231	CERTAIN POWERS & FUNCTIONS OF WAR CONTRACTS PRICE BOARD TRANSFERRED TO GENERAL SERVICES
USC,50A-1231	CLAIM FOR RENEGOTIATION REBATE MUST BE FILED WITHIN CERTAIN TIME
USC,50A-1231	FUNCTIONS OF WAR CONTRACTS PRICE ADJUSTMENT BOARD TRANSFERRED TO ADMINISTRATOR GENERAL SERVICE
USC,50A-1231	INTEREST IS PAID ON RENEGOTIATION REBATEMENT RE RENEGOTIATION ACT
USC,50A-1231	PREJUDICE OR ABATE ANY ACT TAKEN OR RIGHTS ACCRUED
USC,50A-1231	SEC DEPTS MAY ELIMINATE EXCESSIVE PROFITS BY CERTAIN METHODS RE RENEGOTIATION ACT
USC,50A-1231	WAR CONTRACTS PRICE ADJUSTMENT BOARD CREATED BY RENEGOTIATION ACT 1942 IS ABOLISHED
USC,50A-1231	WAR CONTRACTS PRICE ADJUSTMENT BOARD SEE RENEGOTIATION BOARD
USC,50A-1232	CERTAIN STATUTES OF LIMITATIONS FOR COMMENCEMENT OF RENEGOTIATION PROCEEDINGS
USC,50A-1232	2 YEAR STATUTE OF LIMITATIONS FOR AGREEMENTS DETERMINING AMOUNT OR EXCESSIVE PROFITS RE RENEG.
USC,50A-1233	DEFINITION OF EXCESS PROFITS FOR INTERNAL REVENUE CODE RE RENEGOTIATION ACT
USC,50A-1233	DEFINITION OF RENEGOTIATION FOR INTERNAL REVENUE CODE RE RENEGOTIATION ACT
USC,50A-1233	DEFINITION OF SUBCONTRACT FOR INTERNAL REVENUE CODE RE RENEGOTIATION ACT
USC,50A-1917	COMMODITY CREDIT CORP MAY STIMULATE FOOD PRODUCTION IN NON-EUROPEAN COUNTRIES
USC,50A-1918	APPROPRIATION AUTHORIZED FOR PURCHASE OF MOTOR VEHICLES & HIRE OF CONSULTANTS
USC,50A-1918	FISCAL LAW RE FOOD & CONSERVATION PROGRAMS
USC,50A-1919	FISCAL LAW RE STABILIZATION OF ECONOMY
USC,50A-1941D	CRIMINAL PENALTY FOR PURCHASE OF RUBBER PRODUCING FACILITIES TO HIRE PERSONNEL RE DISPOSAL
USC,50A-1941D	CRIMINAL PENALTY FOR RUBBER PRODUCING FACILITIES DISPOSAL COMM. TO WORK FOR PURCHASES
USC,50A-1941D	RUBBER PRODUCING FACILITIES DISPOSAL COMMISSION
USC,50A-1941D	RUBBER PRODUCING FACILITIES DISPOSAL COMM. MAY DETERMINE METHOD ETC FOR ADVERTISING FOR SALE
USC,50A-1941E	AUTHORITY OF OPERATING AGENCY TO DISPOSE OF RUBBER
USC,50A-1941E	AUTHORITY RUBBER PRODUCING DISPOSAL COMMISSION TO OBTAIN ADDITIONAL INFORMATION FROM BIDDERS
USC,50A-1941E	CASH OR GOVT BOND MUST ACCOMPANY PROPOSAL FOR PURCHASE OF RUBBER PRODUCING FACILITY
USC,50A-1941E	CONTRACT FOR SALE OF RUBBER PRODUCING FACILITY RE EXPIRATION OF CONGRESSIONAL REVIEW PERIOD
USC,50A-1941E	FAILURE TO TRANSFER RUBBER FACILITY WITHIN SPECIFIED TIME IS-NOT BASIS FOR CONTRACT RECISSION
USC,50A-1941E	GOVT RUBBER SALES NOT-PERMITTED AFTER TERMINATION OF TRANSFER PERIOD FOR RUBBER FACILITY
USC,50A-1941E	NATIONAL SECURITY CLAUSE IS REQUIRED IN CONTRACT FOR PURCHASE OF RUBBER PRODUCING FACILITY
USC,50A-1941E	PART PAYMENT OF RUBBER PRODUCING FACILITY BY FIRST LIEN PURCHASE MONEY MORTGAGE REQUIRED
USC,50A-1941E	PROPOSALS FOR PURCHASE OF RUBBER PRODUCING FACILITIES MUST BE IN WRITING & CONTAIN INFO.
USC,50A-1941E	RUBBER PRODUCING FACILITIES DISPOSAL COMMISSION TO REFUSE INFORMATION TO CERTAIN BIDDERS
USC,50A-1941E	RUBBER PRODUCING FACILITIES DISPOSAL COMM. MAY DISCLOSE CONTENTS OF PROPOSALS
USC,50A-1941E	RUBBER PRODUCING FACILITIES DISPOSAL COMM. MAY NEGOTIATE WITH BIDDERS
USC,50A-1941E	SALE OF GOVERNMENT RUBBER IS PERMITTED TO PURCHASER OF RUBBER FACILITY
USC,50A-1941E	TRANSFER OF POSSESSION OF RUBBER PRODUCING FACILITY WITHIN 60 DAYS AFTER CONGRESSIONAL REVIEW
USC,50A-1941E	6 MONTHS FOR RECEIPT OF PROPOSALS FOR PURCHASE OF GOVT OWNED RUBBER PRODUCING FACILITIES
USC,50A-1941V	RIGHT OF PROSPECTIVE RUBBER FACILITY PURCHASER TO REJECT CONTRACT IF CONGRESS REJECTS SALE
USC,50A-2003	AUTHORITY SEC LABOR TO ADJUDICATE CLAIMS RE ENEMY DETENTION OF EMPLOYEES OF U.S. CONTRACTORS
USC,50A-2003	AUTHORITY SEC LABOR TO ADJUDICATE CLAIMS RE INJURY OR DEATH OF EMPLOYEES OF U.S. CONTRACTORS
USC,50A-2062	POLICY OF U.S. TO ENCOURAGE GEOGRAPHICAL DISPERSION OF INDUSTRIAL FACILITIES
USC,50A-2071	AUTHORITY OF PRESIDENT TO ALLOCATE MATERIALS & FACILITIES IN ORDER TO PROMOTE NATIONAL DEFENSE
USC,50A-2071	AUTHORITY OF PRESIDENT TO REQUIRE PRIORITIES AND ALLOCATE CRITICAL & STRATEGIC MATERIALS
USC,50A-2071	AUTHORITY OF PRESIDENT TO REQUIRE PRIORITY ON PERFORMANCE OF CONTRACTS RE NATIONAL DEFENSE
USC,50A-2091	AUTHORITY OF PRESIDENT TO GUARANTEE FINANCIAL INSTITUTIONS AGAINST LOSS ON LOANS
USC,50A-2091	SMALL-BUSINESS IS ELIGIBLE FOR GUARANTEE OF LOAN EVEN IF ALTERNATE SOURCE IS AVAILABLE
USC,50A-2092	AUTHORITY OF PRESIDENT TO MAKE LOANS TO PRIVATE BUSINESS ENTERPRISES RE DEFENSE-PRODUCTION ACT
USC,50A-2093(B)	USC.50A-2166(A) PL.92-325= EXTENSION OF DEFENSE PRODUCTION ACT OF 1950
USC,50A-2093	AUTHORITY OF PRESIDENT FOR DEVELOPMENT OF SUBSTITUTES FOR CRITICAL MATERIAL, DEFENSE-PROD ACT
USC,50A-2093	AUTHORITY OF PRESIDENT TO INSTALL EQUIPMENT IN U.S. OWNED INDUSTRIAL FACILITIES
USC,50A-2093	AUTHORITY OF PRESIDENT TO INSTALL U.S. EQUIPMENT IN PRIVATELY-OWNED INDUSTRIAL FACILITIES
USC,50A-2093	AUTHORITY OF PRESIDENT TO MAKE SUBSIDIES ON DOMESTICALLY PRODUCED MATERIALS - DEFENSE-PROD ACT
USC,50A-2093	AUTHORITY OF PRESIDENT TO PURCHASE ITEMS WITHOUT REGARD TO RESTRICTIONS ON TERMS & CONDITIONS

KEYWORDS

USC,50A-2093	AUTHORITY OF PRESIDENT TO PURCHASE METALS & OTHER MATERIALS FOR GOVT USE & RESALE
USC,50A-2093	AUTHORITY OF PRESIDENT TO RESELL SUBSIDIED COMMODITIES AT LOSS RE DEFENSE-PRODUCTION ACT
USC,50A-2093	AUTHORITY OF PRESIDENT TO TRANSFER STORE PROCESS & REFINE PURCHASED MATERIAL. DEFENSE-PROD ACT
USC,50A-2093	LIMITATIONS ON AUTHORITY OF PRESIDENT TO RESELL COMMODITIES RE DEFENSE-PRODUCTION ACT-1950
USC,50A-2093	RESTRICTION ON AUTHORITY OF PRESIDENT TO PURCHASE ITEMS ATMORE THAN CEILING PRICE
USC,50A-2093	TIME LIMITATION ON AUTHORITY OF PRESIDENT TO PURCHASE ITEMS RE DEFENSE-PRODUCTION ACT-1950
USC,50A-2094	AUTHORITY PRESIDENT TO MAKE LOANS OR PURCHASES RE PRODUCTIVE CAPACITY & SUPPLY
USC,50A-2151(B)	OFFICE OF DEFENSE MOBILIZATION MUST INVESTIGATE DEFENSE CONTRACT & ENCOURAGE SMALL BUSINESS
USC,50A-2151	CONGRESSIONAL INTENT & DIRECTION TO ENCOURAGE SMALL BUSINESS UNDER DEFENSE PRODUCTION ACT
USC,50A-2155	PRESIDENT MAY SUBPOENA RECORDS, REPORTS ETC RE INVESTIGATION UNDER DEFENSE PRODUCTION ACT
USC,50A-2156	JURISDICTION OF DISTRICT COURTS IN ENFORCEMENT OF DEFENSE PRODUCTION ACT
USC,50A-2157	LIABILITY RE COMPLIANCE WITH REGULATIONS OF DEFENSE-PRODUCTION ACT-1950 LATER DECLARED INVALID
USC,50A-2157	NO PERSON SHALL DISCRIMINATE AGAINST CONTRACTS AFFECTED BY PRIORITY RE DEFENSE-PRODUCTION ACT
USC,50A-2158	ACTS REQUESTED BY PRESIDENT BY VOLUNTARY AGREEMENT NOT SUBJECT TO ANTI-TRUST LAWS
USC,50A-2158	ACTS REQUESTED BY PRESIDENT BY VOLUNTARY AGREEMENT NOT SUBJECT TO FEDERAL TRADE COMMISSION ACT
USC,50A-2159	AUTHORITY COMPTROLLER-GENERAL STUDY RE FEASIBILITY OF UNIFORM COST ACCOUNTING STANDARDS
USC,50A-2159	FAILURE TO INCLUDE STATEMENT THAT INDUSTRY WAS CONSULTED DOES NOT MAKE RULE INVALID
USC,50A-2159	FUNCTIONS EXERCISED UNDER DEFENSE-PRODUCTION ACT-1950 EXEMPT FROM ADMINISTRATIVE-PROCEDURE ACT
USC,50A-2159	STATEMENT THAT INDUSTRY WAS CONSULTED IN RULES REGULATIONS ISSUED UNDER DEFENSE-PRODUCTION ACT
USC,50A-2162	COMMITTEE ON DEFENSE PRODUCTION MAY SUBPOENA BOOKS ETC RE HEARINGS ON ADMINISTRATION OF ACT
USC,50A-2162	JOINT COMMITTEE ON DEFENSE PRODUCTION SHALL REVIEW PRICING & ADMINISTRATION OF PRODUCTION ACT
USC,50A-2166(A)	PL,92-325= EXTENSION OF DEFENSE PRODUCTION ACT OF 1950 USC,50A-2093(B)
USC,50A-2166	TERMINATION DATE FOR DEFENSE PRODUCTION ACT OF 1950
USC,50A-2166	TERMINATION OF DEFENSE PRODUCTION ACT OF 1950 SHALL NOT AFFECT EXISTING CONTRACTS
USC,50A-2167	COMPTROLLER-GENERAL IS TO REPORT TO CONGRESS ON STUDY OF UNIFORM COST ACCOUNTING STANDARDS
USC,50A-2168(A)	COST ACCOUNTING STANDARDS BOARD FORMATION
USC,50A-2168(A)	ROLE OF COMP GEN RE COST ACCOUNTING STANDARDS BOARD
USC,50A-2168(G)	COST ACCOUNTING STANDARDS NOT APPLICABLE TO NEGOTIATED CONTRACTS BASED ON CATALOG OR MARKET
USC,50A-2168(G)	COST ACCOUNTING STANDARDS NOT APPLICABLE TO NEGOTIATED CONTRACTS WHERE PRICE SET BY LAW
USC,50A-2168(G)	COST ACCOUNTING STANDARDS USED BY ALL CONTRACTS IN NEGOTIATED CONTRACTS OVER 100,000
USC,50A-2168(H)	DEFENSE CONTRACTORS DISPUTE OVER COMPLIANCE UNDER DISPUTES CLAUSE RE ACCOUNTING STANDARDS
USC,50A-2168(H)	DEFENSE CONTRACTORS FAILURE TO COMPLY WITH COST ACCOUNTING STANDARDS
USC,50A-2168(H)	DEFENSE CONTRACTORS TO DISCLOSE COST ACCOUNTING PRINCIPLES RE STANDARDS BOARD
USC,50A-2168(H)	EFFECTIVE DATE OF COST ACCOUNTING STANDARDS FOR DEFENSE CONTRACTORS
USC,50A-2168(K)	PROMULGATION OF REGULATIONS EXEMPTING CERTAIN DEFENSE CONTRACTORS RE COST ACCOUNTING STAND
USC,50A-2168(J)	RIGHT TO EXAMINE RECORDS OF DEFENSE CONTRACTORS RE COST ACCOUNTING STANDARDS
USC,50A-2168(L)	FISCAL LAW RE COST ACCOUNTING STANDARDS BOARD
USC,50A-2253	AUTHORITY CIVIL-DEFENSE ADMINISTRATOR TO CONTRACT FOR TRAINING PROGRAMS IN DEFENSE TECHNIQUES
USC,50A-2253	AUTHORITY CIVIL-DEFENSE ADMINISTRATOR TO ESTABLISH COLLEGE & TECHNICAL TRAINING SCHOOLS
USC,50A-2253	AUTHORITY CIVIL-DEFENSE TO PURCHASE BINDING FROM PRIVATE BINDERIES RE PUBLIC PRINTER ORDERS
USC,50A-2281	FUNCTIONS OF ADMINISTRATOR OF FEDERAL CIVIL DEFENSE ADMINISTRATION
USC,50A-2368(G)	PROMULGATION OF COST ACCOUNTING STANDARDS FOR DEFENSE CONTRACTORS & SUBCONTRACTORS
USC,50A-2392	SEC COMMERCE MAY MODERNIZE, REPAIR, & CONVERT MERCHANT & AUXILIARY VESSELS
USC,50A-2393	AUTHORITY SEC COMMERCE TO CONTRACT BEFORE JULY,1958 TO REPAIR MODERNIZE CONVERT MERCHANT SHIPS
USC,50A-2393	LIMITATIONS ON SEC COMMERCE AUTHORITY TO CONTRACT FOR SHIP REPAIR AND CONVERSION
USC,50A-2393	RESTRICTIONS ON CONTRACTING AUTHORITY OF SEC COMMERCE TO MODERNIZE, ETC MERCHANT VESSELS
USC,50A-2394	FISCAL LAW RE EMERGENCY SHIP REPAIR PROGRAM
USC,50A-3	IT IS UNLAWFUL TO TRADE WITH THE ENEMY RE TRADING-WITH-THE-ENEMY ACT-1917
USC,50A-468	PLACEMENT OF PRIORITY ORDERS, SPECIAL PROVISION FOR STEEL INDUSTRY, REPORT TO CONGRESS
USC,50A-643A	PRODUCTION OF BOOKS, RECORDS, & WITNESSES BY SUBPOENA RE AUDIT & INSPECTION OF WAR CONTRACTORS
USC,50A-643B	WAR PRODUCTION BOARD COMPULSORY PRODUCTION OF BOOKS AND RECORDS
USC,50A-643	DEFINITION & DETERMINATION OF DEFENSE CONTRACT RE INSPECTION & AUDIT OF WAR CONTRACTORS
USC,50A-643	INSPECTION OF PLANT & AUDIT OF BOOKS OF DEFENSE CONTRACTORS IN ACCORDANCE WITH USC,10-310(L)
USC,50A-767 AND *USC,50A-771*	OBSOLETE
USC,50A-771	OBSOLETE USC,50A-767 AND
USC,50A-781	PROHIBITION AGAINST SKETCHING OR OTHERWISE REPRODUCING MILITARY RESERVATIONS, EQMT, ETC
USC,50A-782	SEC ARMY OR NAVY MAY PERMIT PHOTOGRAPHING, ETC., OF MILITARY PROPERY AND EQUIPMENT
USC,50A-8	CONTRACT WITH ALLY OF ENEMY MAY BE TERMINATED BY SERVING NOTICE ON ALIEN PROPERTY CUSTODIAN
USC,50A-8	CONTRACT WITH ENEMY MAY BE TERMINATED BY SERVING NOTICE ON ALIEN PROPERTY CUSTODIAN
USC,50A-8	PRIVATE CONTRACTS ENTERED INTO PRIOR TO WAR WITH ENEMY MAY BE ABROGATED
USC,50A-8	SUSPENSION OF STATUTE OF LIMITATIONS ON CONTRACTS WITH ENEMY ENTERED INTO PRIOR TO WAR

Mr. **Gordon**. Part of the problem is that we have manual retrieval in our data repositories of voluminous amounts of data and, given the nature by which we allocate funds and plan for spare parts, there is insufficient time from the time the requirement is generated to meet a need, to retrieve the data, to review it for accuracy and completeness, to process a reprocurement data package and solicit competitive proposals. The Secretary of Defense, in recognizing that, on August 29, 1983 mandated a host of management actions to solve these problems, and we will soon be making a report to the Secretary of Defense on our accomplishments in that area.

We have identified the need for 7,000 additional personnel, with heavy emphasis on value engineering, automating our data repositories, better training, better attention to the acquisition of data on the front end; rewarding and penalizing, both within Government and contractors; changing our accounting systems; and even having under active consideration, soliciting from Congress a 2-year authorization or appropriation for spare parts.

I think this bill is well intentioned, but we do certain things which on balance may not be the most cost-effective things to do.

Senator **Nickles**. Mr. Gordon, I hear you saying that but I hope that you hear me and you hear some other Members of Congress when we are trying to tell you that we don't think—I will grant you, I think that I have looked at some of the initiatives that have been taken by yourself and the Secretary and others, indicating that you are at least starting to address some of the problems. You are trying to eliminate some of the horror stories, but there are still a lot of horror stories out there.

Mr. **Gordon**. Absolutely.

Senator **Nickles**. Until—not necessarily on the horror stories—but until you start addressing I think part of the real source of the problem, I haven't heard yourself or others say, "Well, we want to go out and see if we can't eliminate some of these 4,000 laws and regulations dealing with Government procurement." A lot of us think that that might help, so let's have a little bit of initiative. If you are saying that this would do more damage than good, fine. Let's have a little assistance.

I know of several manufacturers whose industries are in bad shape, and so they are looking to expand their field, and one area that they are looking at is defense procurement. I have had them repeatedly come back to me and say, "It's not worth it. It's too much of a hassle. You can't open the door. The door is so difficult to open. There is too much red tape, too bureaucratic, too complicated. I give up." As a result of that—and a lot of these manufacturers are ones that could go in and beat the original manufacturer that started making that item 20 or 30 years ago, they could beat them severely in price and you would see a real savings, so you could actually get more value out of your defense dollars—we need to open those doors.

Again, this legislation, I am not saying it is a panacea. I am not saying it is a cure-all. There may well be different sections in this legislation that may cost more than is saved, but we need some assistance and I am going to warn you that if we don't see enough forthcoming administratively—if we can do it administratively, fine, but it needs to be done. I understand that there was an administrative requirement that would add or make some changes in the Commerce Business Daily that has not gone into effect, that there were some regulations. Is that correct? Staff has informed that there are requirements relating to the Commerce Business Daily that are identical to the regulatory requirements now in the Federal Acquisition Regulation, presently being ignored. Is that correct?

Mr. GORDON. I am at a loss to answer your question.

Senator NICKLES. Would you respond to that in writing for the committee?

Mr. GORDON. If Bill can explain the question in more detail, yes, we will be happy to answer it.

[Subsequent information was received and follows:]

SYNOPSIS

Section 5 would significantly expand the synopsizing requirement in the Commerce Business Daily (CBD) to include as appropriate, system application, form, fit or function, procurement history, procurement forecast etc. We find these requirements a costly and onerous administrative burden. It would be next to impossible to comply with the intent of these requirements. If a way could be found to provide this information, it would greatly increase the size of the CBD, marking it unwieldly and unusable by industry, particularly small business.

Senator NICKLES. We will have that and some other questions. Again, we are not seeking in Congress, I think, to micromanage Federal Government procurement but as I see it from a businessman's perspective, Federal Government procurement has been a disaster. It has been very inefficient and very costly. You can procure things in the private sector in a very short period of time with very little red tape. You can't do that in the Federal Government.

Therefore, again, I hope that you will make some efforts to open the doors and make it possible for more people to participate. I think as a result you could save some money. If not, I think one of the negative consequences that you are going to have is that you will see Congress greatly cutting back in defense, possibly in many areas where we shouldn't be cutting back, as an attempt to make sure that some of these horror stories aren't repeated.

Senator Dixon, do you have any comments or questions?

Senator DIXON. Mr. Gordon, I would like to question you to some extent about section 5, the technical data management to foster future competition section, and section 6, the validating proprietary data restrictions section which you devoted considerable attention to in your testimony. Some very reputable people in business in my State, for whom I have the highest personal regard, have raised some questions about these sections.

I would like to ask you first, does the Government have a need for complete and accurate technical data if that can be made available, so that it will be able to compete certain requirements?

Mr. GORDON. We procure technical data wherever we anticipate a need to buy parts in order to maintain the system, and wherever we feel the technical data would be cost-effective in the sense that the savings to accrue from competition would offset the initial investment in buying it. We only pay for that data which the contractor owns by virtue of the right that he developed it totally at his own expense.

Senator DIXON. How do you do that? Do you negotiate with the contractor in connection with the value of that in some way?

Mr. GORDON. If the contractor identifies data which he deems to be proprietary, he is obliged to place a restrictive legend on that data. We get all the data. It is the disposition of the data that is restricted. He provides us all the data.

If we wish to make unlimited use of the data that is marked "restricted," then he has a burden to demonstrate why, indeed, that data belongs to him. If we are satisfied that his assertions are proper, then we will accede to him. If we believe that they are not proper, we will challenge him, including litigating it. Sometimes we make a unilateral determination and utilize the data notwithstanding his objection.

Senator DIXON. Let me interrupt at that point.

Let's take the case of an assertion by the contractor that is absolutely correct. He has developed this data for commercial purposes elsewhere; he is selling to the Government on a competitive bid where he has been the lowest responsible bidder. I want to give the contractor every benefit of the doubt with respect to this. Do you follow what I am saying?

Mr. GORDON. Yes.

Senator DIXON. He developed it for commercial purposes. This is a one-time sale of some sort to the Government. There will be follow-up acquisitions, and you are concerned about the follow-up acquisitions. What would you do in that case?

Mr. GORDON. In that case, we would get the data, but it would be marked with a restrictive legend and it would not be used outside of the Government other than for the purposes of maintaining the system and training our personnel in its use.

Senator DIXON. But do you ever attempt to acquire that data?

Mr. GORDON. We have contracts where we reserve the right to acquire the data by option and negotiate a fair and reasonable price, if we feel it is essential to have the data.

Senator DIXON. Now you have examined this legislation of ours. Whether you take issue with it or not is not important from the standpoint of this question. Do you see anything in this with respect to the technical data or proprietary rights issue that distinguishes it from your present practice in those isolated cases where you do follow some acquisition attempts with private industry or contractors?

Do you follow my question? Do you understand it?

Mr. GORDON. Yes, I understand your question precisely.

Senator DIXON. Here is the point I am trying to make, if I can make this even clearer, Mr. Gordon. There have been suggestions from people for whom I have the highest personal regard that something we are doing in the technical data question or proprietary rights question distinguishes this legislation from administrative practices——

Mr. GORDON. Yes.

Senator DIXON [continuing]. Sometimes followed now by DOD and others in the procurement process. Is there merit in that contention and, if so, would you suggest the lines where there is?

Mr. **Gordon**. The specific aspects of the legislation that bother us are, first of all, the provision for liquidated damages. That would seem to require the contractor to be penalized in addition to paying the Government's actual expenses if the Government were to prevail. In one instance, it would certainly "incentivize" contractors to argue more diligently because the cost of losing is not only the cost of losing your data rights but paying a penalty in addition to bearing our expenses.

Senator **Dixon**. Now may I interrupt you at that point?

What now occurs in respect to that? In other words, you are talking about a case where a contractor asserts a proprietary right that you later find to be without validity. Am I substantially correct in that?

Mr. **Gordon**. Yes.

Senator **Dixon**. He has asserted a proprietary right that, in fact, you find does not exist.

Mr. **Gordon**. That is right.

Senator **Dixon**. Now what would you now do in that situation?

Mr. **Gordon**. We would not penalize him or seek to recover other costs. We would merely remove the restrictive legend.

Senator **Dixon**. Would you continue to do business with the person who had done that in a case where you felt that those assertions—I won't characterize them as fraudulent, but were bottomless and without merit?

Mr. **Gordon**. If we found them to be bottomless and without merit, and there was a trend or a pattern to it, we would then begin to question the contractor's credibility and responsibility. Most often, these questions are not black and white.

Senator **Dixon**. I understand that, and I am not quarreling with the questions where they are black and white, Mr. Gordon. You understand that.

Mr. **Gordon**. Yes.

Senator **Dixon**. I am talking about those questions where you find a contractor who almost maliciously and fraudulently asserts a proprietary interest that does not exist.

Mr. **Gordon**. We would consider that in subsequent source selections as reflective on his past performance, but it would not, in our opinion, constitute a false claim against the Government.

Senator **Dixon**. All right, but I am very concerned about getting this just right. Do I understand you to say— and I am asking this to educate this Senator, you understand, not to be argumentative with you. Do I understand you to say that, as to the technical data and proprietary rights questions, in these two sections 5 and 6, the only distinguishing characteristic is the monetary damages question?

Mr. **Gordon**. No, sir.

Senator **Dixon**. Well, see, the reason I ask this is that I may want to respond to these people whom I consider extremely reputable and decent people in this business, so I want you to delineate to me those distinctive differences between what I say in this legislation—I should say what my colleagues and I say, Mr. Chairman—what we say and what the practices of the Department of Defense and others are.

Mr. **Gordon**. Let me go up the list of the things that the legislation requires that we are already doing.

Senator **Dixon**. Wait. Can I get there? What are you going to do, section 5?

Mr. **Gordon**. Section 5.

Senator **Dixon**. All right, I am there, page 11.

Mr. **Gordon**. Your legislation would require the identification of the manufacturer of a component. We now have administrative regulations requiring that identification for replenishment spare parts and initial spare parts.

Senator **Dixon**. So we don't do anything different there. We just want to put in legislation—and I understand your position; you understand that, Mr. Gordon. You may prevail on that. Your position is you want to do it administratively.

Mr. **Gordon**. Yes.

Senator **Dixon**. All I am trying to distinguish is what I am saying—or not what I am saying, I'm sorry; my chairman will understand—what my colleagues and I are saying in this legislation that distinguishes it from your administrative practices.

Mr. **Gordon**. Permitting subcontractors to sell directly to the Government, we have such provisions in our contracts today.

Senator **Dixon**. All right.

Mr. **Gordon**. We do not specify damages nor do we make the contractor liable for legal expenses and other expenses.

Senator **Dixon**. That is section 5. You are talking about subparagraph 8 of section 5 on page 12?

Mr. **Gordon**. Yes.

Senator **Dixon**. All right.

Mr. **Gordon**. Justification for any restriction on data asserted by the contractor, he already has that affirmative responsibility.

Now with respect to specifying technical data to be delivered, we currently do that. We have a Contract Data Requirements List [CDRL], and we currently require him to identify the data that will be delivered. However, it is not predetermined which will be marked or unmarked with restrictive legends unless we so ask for a predetermination of data rights at the time of contract award.

When he does make a predetermination of data rights, we may or may not reserve the right to buy the restricted data.

Senator **Dixon**. But you don't find any fault with our suggesting you have that right, do you?

Mr. **Gordon**. No; except for one——

Senator **Dixon**. You want to have that right?

Mr. **Gordon**. No problem with that, except for one thing: the failure to identify data that will be delivered with restriction should not automatically mean that if he later on discovers he will use some technology for which he does have a property right, he will have forfeited that by virtue of not having identified it early on.

Senator **Dixon**. Now may I interrupt you, Mr. Gordon? Where is that in our bill? I am not trying to put you on the spot.

Mr. **Gordon**. We read the bill, in effect, to say that, to the extent you do not identify at the outset the data to which the Government will have limited rights, it will have unlimited rights to all other data.

Senator **Dixon**. Does our counsel agree with that, Mr. Chairman?

Mr. MONTALTO. Counsel was writing a note to Senator Nickles.

Senator DIXON. Well, here is what I am concerned about: I have asked Mr. Gordon, may I say to counsel, to distinguish what they do administratively from this bill since questions have been raised. He has pointed to the question of liquidated damages. I hear that. We are noting that in the record. We will discuss it.

I think he is now asserting that in the bill we say that if the contractor or the businessman doing business with the Government does not correctly identify a proprietary interest in technical data, he waives the assertion of that proprietary interest later under our legislation. You are saying you wouldn't do that administratively.

Mr. GORDON. No.

Senator DIXON. I don't have any quarrel with that. You would say if a man made an honest mistake, an honest error in judgment in asserting a proprietary right that in fact existed, and it was later discovered he ought to have the right to assert that right, I do not find, as a compassionate man, any difference with you on that, but I am trying to see where you say that is in here.

Mr. MONTALTO. Senator Dixon, that is not the intent of the legislation. In this particular section our intent was to make sure that the contract properly defined the contractual relationships pertaining to data.

Despite what the distinguished Mr. Gordon says, several of the studies by the departments suggest that many of their major system contracts were deficient in this regard and that many of the contract provisions that are considered to be essential were not present in many contracts because there is no regulatory requirement, underscored, for many of these contract provisions. So if the Department chooses not to have a mandate in its regulations, possibly the Congress should provide the motivation to the Department and to the Government generally. I think a close reading of the FAR will bear me out in that regard.

Senator DIXON. In other words, you assert that we do not, in fact, cause the contractor to lose that proprietary interest by a negligent failure to call it to the attention of the Government in the first instance.

Mr. MONTALTO. That is correct.

Senator DIXON. Let me pursue further now, Mr. Gordon.

So far, you have said the question of liquidated damages is a thing you take exception to. It distinguishes this section from the administrative practices.

Now you have talked about this failure to suggest a proprietary interest. What else would you see——

Mr. GORDON. It would require a predetermination of rights in data in each and every contract.

Senator DIXON. Say that again.

Mr. GORDON. It would require that there be a predetermination of rights in data in all contracts, and it also would require a separate line item for the payment of that data.

Senator DIXON. Well, you do now determine their proprietary interest, do you not?

Mr. GORDON. Not in each and every contract and not for each and every item of data, because not each and every contract offers the same potential for follow-on procurement or breakout of spare parts.

We have things that are consumables. We have things that we do not want to fix or we do not want to go elsewhere to buy because we are buying in very limited quantities.

This is a very uniform, broad application. It is a tool and we use it. In terms of being a tool, we don't object to it; it is prescribing it across the board that takes away our administrative flexibility.

Senator DIXON. Will you look at line 22 of page 13 with me?

Mr. GORDON. I will have to get a copy.

Senator DIXON. Take your time.

Mr. GORDON. OK, sir.

Senator DIXON. It says here:

> The application of any of the provisions specified in this subsection may be waived if the contracting officer determines in writing that any such provision would not be applicable to the production contract or otherwise would not be in the best interest of the Government in attaining the purposes for which the system is being procured stating the reasons therefor. Such determination shall be made part of the contract file."

In fact, could you not make a determination in writing in all of these instances that you are suggesting to me that it was not necessary to delineate those particular proprietary interests?

Mr. GORDON. Yes, we could. There is no question that we could. It just would be very time consuming and burdensome, and it would require a lot of effort.

Senator DIXON. Of course, I don't want to be argumentative about this, but the other side of that coin can be that the Government procurement officer takes no interest in these questions; thus, preventing competitive opportunities for others. Would you not concede the other side of that argument?

Mr. GORDON. I could not deny that does not happen from time to time.

Senator DIXON. You understand I don't want to be argumentative here, but what we are trying to find is some practice-and-procedure method that will encourage the procurement officers do, in fact, seek competition in these things.

Mr. GORDON. This is one method of enhancing competition. We do not think it is the method where there is a big payoff, because it is not the big, driving problem.

Part of the driving problem is the screening of parts for breakout and competition. We have changed our regulations. We have screened over 2 million parts to insure that they, in fact, when being bought sole source, could not be broken out and competed.

Senator DIXON. I hear what you are saying in that regard. I do not even suggest this is the big payoff. You understand—may I say in all candor—I do not see this as the biggest question in procurement policy, but what I am trying to do is refine sections 5 and 6, if I can, to answer legitimate objections I think I have found in legitimate industry in my State concerning that.

Mr. Gordon, could you give me a statement in writing of where administrative policies altogether differ now from what we are suggesting in sections 5 and 6? Could you do that, first? Second, could you suggest what changes we would make in sections 5 and 6 that support what you do when you follow the appropriate policies with respect to technical data and proprietary interests?

Mr. **GORDON**. Yes; we can and we will.

Senator **DIXON**. Would you do that, and then I might get back to you later about it.

Mr. **GORDON**. All right.

[Subsequent information was received and follows:]

STATEMENT OF ADMINISTRATIVE POLICIES

We have appended to these inserts a detailed comparison of sections 5 and 6 of this bill and current Department of Defense policy on technical data as is reflected in parts 27.4, 52.227, Supplement 6 of DoD FAR Supplement (DFARS), and the Contract Data Requirements List (CDRL). We have included as part of this comparison certain recommended changes to the present wording of sections 5 and 6 of S. 2489. Proposed changes include:

Requiring contractors to support the propriety of their claims to rights in data by a clear and convincing evidence.

Permitting contractors to assert rights in data subsequent to delivery when inadvertent error can be shown.

Setting the contractor's response time to contracting office's request for substantiation of data rights.

Deletion of contractor's liability for liquidated damages while retaining the right for the government of recovery for actual costs for reviewing the data and certain other actual costs (e.g., legal expenses) when the government's challenge of a contractor's asserted rights in data is sustained.

Certain changes to the timing of the plan for management of technical data received under contracts, and its implementation.

S. 2489, Small Business Competition Enhancement Act of 1984

Comparison of Sections 5 and 6 of S. 2489 to the present Department of Defense policy on Technical Data as set forth in parts: 27.4, 52.227 and Supplement 6 of the DoD FAR Supplement (DFARS) and the Contract Data Requirements List (CDRL) and recommended changes to present wording of these Sections of S. 2489.

TECHNICAL DATA MANAGEMENT TO FOSTER FUTURE COMPETITION

> Sec 5. (a) Section 15 of the Small Busienss Act is amended by adding at the end thereof the following -
>
> "(o) To foster competition for the acquisition of requirements to maintain a major system during its service life, the head of the Federal agency with responsibility for the system shall insure that the initial and all subsequent production contracts contain appropriate provisions related to technical data, including -
>
> "(1) specifying the technical data deliverable under the contract, and a delivery schedule therefor, including options for deferred delivery or multiple deliveries;...."

Present DoD Policy. This has been a policy for many years and use of the CDRL (DD-1423) as the mechanism has given high visibility to contractual requirements for technical data.

> "(2) establishing criteria for determining the acceptability of technical data to be delivered under the contract;...."

Present DoD Policy. The criteria for acceptability of technical data to be delivered under any contract are the source documents cited in the contractual data requirements.

> "(3) establishing separate payment lines relating to the delivery of technical data under the contract and authorizing the withholding of payments for failure to make timely deliveries of acceptable data;...."

Present DoD Policy. This subsection reflects current DoD policy (see DFAR 27.403-2(f) and 52. 227-7017.

> "(4) specifying the respective rights of the Government and a contractor or subcontractor regarding technical data to be submitted under the contract, including therein a definition of the phrase 'developed at private expense';...."

Present DoD Policy. Present data clauses (e.g. DFARS 52.227-7013 and 7017) identify the respective rights of the Government and contractors. However, there is no definition for the term, "developed at private expense." We do not object to the requirement for this definition.

> "(5) identifying, in advance of delivery, technical data which is to be delivered with restrictions on the Government's rights in such data;...."

Present DoD Policy. DoD presently allows the contracting officer to request a predetermination of rights prior to award (DFARS 27.403-2d and 52.227-7014) and follow-on identification of intent to incorporate items documented with limited data rights (DFARS 27.403-2(a) and 52.227-7013 alternate I). This latter identification, although not expressly stated, would by necessity occur prior to delivery. However, the inclusion of these provisions does not conclusively establish that a contractor's failure to identify data rights as being limited removes the possibility of so restricting these rights at a later time. The possibility that inadvertent errors with respect to limiting use of data can occur and are correctable is recognized by DoD (DFARS 27.403-3(d)). This provision in the DFARS permits the contractor to correct the omission within six months after the delivery of the data if the propriety of the restriction can be established by clear and convincing evidence; it can be demonstrated that the absence of restrictive markings on the data which was delivered was inadvertent; and the contractor agrees to absolve the government of any liability. The language in subsection (5) differs from existing DoD policy in that it appears subject to the possible interpretation that the failure of a contractor to identify in advance of delivery technical data which is to be delivered with restrictions conclusively establishes loss of the right to limit use. The advisability of conclusively cutting off a contractor's ability to restrict the use on data once delivery has been made is subject to varying, opinions generally with a view toward providing the possibility of relief where an honest error has been made. With this in mind, we suggest use of the following language:

Proposed Change to Present Wording of S. 2489.

"(5) identifying in advance of delivery, technical data which is to be delivered with limitation on the Government's rights in such data provided however, that data not so identified may be identified and marked with restrictive markings if within six months of the date of delivery the contractor requests permission to so limit the Government's right to the data; demonstrates the propriety of such limitations by clear and convincing evidence, that the failure to identify the data in advance of delivery was inadvertent; and relieves the Government of any liability with respect to such technical data."

> "(6) requiring the contractor to prepare or cause to be prepared in advance of delivery, and retain, a justification for any restriction to be asserted by the contractor or any subcontractor limiting the Government's rights in such data;...."

Present DoD Policy. The clause at DFARS 52.227-7018, Restrictive Markings on Technical Data requires a contractor to:

- develop and maintain written procedures for marking technical data;
- establish a quality assurance system for compliance;
- maintain record of how procedures were applied, and
- maintain records "as are reasonably necessary" to show that restrictive markings are authorized.

This present DoD policy would appear to be consistent with this subsection.

> "(7) authorizing the Government to disclose limited rights data to a contractor retained by the Government

> solely for the purpose of reviewing the justification for the limitation placed on the data, and requiring such contractor to strictly adhere to any restrictions placed on the data;...."

Present DoD Policy. At present DoD does not allow the disclosure of limited rights data to a consultant firm. However, although there are varying views on this subject, it is generally considered to merit further study.

> "(8) specifying liquidated damages to be paid to the Government by the contractor or by a subcontractor in the event that the Government's challenge to a limitation on the Government's rights in technical data asserted by the contractor or a subcontractor is sustained;...."

Present DoD Policy. DoD does not presently have a requirement for liquidated damages, and does not seek to recoup costs resulting from challenges of a contractor's assertion of data rights or for lost opportunities to compete where the challenge is sustained. A requirement for a liquidated damages provision is not recommended as the courts will customarily not enforce any such provision when it appears to be punitive in nature. However, recovery of the actual cost incurred by the Government in successfully challenging a contractors assertion of proprietary interest in data appears to merit some further consideration.

Proposed Change to Present Wording of S. 2489.

"(8) specifying that the contractor may be liable to reimburse the Government for the costs it incurs in the event that the Government's challenge to a limitation on the Government's rights in technical data asserted by the contractor or a subcontractor is sustained;...."

> "(9) prohibiting a contractor from requiring a subcontractor or the Government to pay a fee, royalty, or other charge for the subcontractor's use of any technical data, except that protected by patent, in the performance of a contract to furnish a component or other requirement directly to the Government, if the same technical data was furnished or otherwise made available by the contractor to the subcontractor for the performance of a contract between them;
>
> "(10) prohibiting the contractor from limiting, either directly or indirectly, the Government's right to purchase directly from a subcontractor any component or other requirement which the subcontractor had previously furnished to the contractor without restriction;...."

Present DoD Policy. This is consistent with DoD policy, see DFARS 52.227-7017.

> "(11) ascertaining and documenting the identity of the manufacturer of a component by requiring the contractor, and each subcontractor at every tier, to annotate engineering drawings with such information; and
>
> "(12) requiring the contractor, and each subcontractor at every tier, to maintain a listing of the subcontractors and suppliers from whom it has purchased, or solicited to purchase, components included in the major system and granting to the Government the right to obtain a copy thereof...."

Present DoD Policy. By February, 24, 1984, memorandum, subject Spare Parts Acquisition, the PDUSDRE directed that the identification of vendors of spare parts by contractors as set forth in DFARS Supplement 6 be mandatorily applied to the provisioning of initial spare parts. However, marking drawings is not necessarily the answer, as:

a. This would require a change to the present "drawing" system;

b. Drawings are not always best place to record such information; and

c. Other administrative type submissions on data maybe cheaper and better.

Proposed Changes to Present Wording of S. 2489.

As a practical matter these two provisions seek to accomplish the same objective. It appears that (12) is more consistent with current breakout policy and (11) can be eliminated.

> "(b)(1) Within one year after the date of enactment of the Small Business Competition Enhancement Act of 1984, each Federal agency shall develop a plan for the management of technical data received under contracts for the development production, modification, or maintenance of major systems within its jurisdiction. Among other matters, the management plan shall address:
>
> (A) inventory of existing data;
>
> (B) procedures for indexing, storing, and updating items of technical data entered into the system;
>
> (C) techniques for verifying contractor-imposed limitations on the Government's rights to make future use of the data in competitive acquisitions; and
>
> (D) procedures to assure that agency procurement officials and qualified prospective contractors will have timely access to complete and current technical data for the competitive acquisition of requirements for the maintenance of the system during its service life.

> (2) Within five years after the date of enactment of the Small Business Competition Enhancement Act of 1984, each Federal agency shall complete implementation of the management plan required by paragraph (1), and include the technical data for each currently operational major system within its jurisdiction.
>
> (3) Not later than eighteen months after the enactment of this Section, the Comptroller General of the United States shall transmit to the Congress a report evaluating the plans of selected Federal agencies for the management of technical data for major systems within their jurisdiction. The report shall include an evaluation of the plans of the Department of Defense, the Department of Energy and the Department of Transportation, and the National Aeronautics and Space Administration."

Present DoD Policy. DoD does not presently have a comprehensive integrated index to data assets. We do not oppose a requirement for the development and implementation of a technical data management plan. While the objectives of such a plan are understandable, the task is monumental. We have over 200 million pieces of technical data in our repositories. Before any plan can be implemented ADPE will be required as well as additional personnel. This is a long term project and a completion date may well be impossible to establisn other than concurrently with approval of the plan. Therefore, we suggest that the law only require that a plan be developed including a completion target and that GAO audit progress toward implementation of the plan.

Proposed Change to Present Wording of S. 2489.

"(b)(1) Within one year after the date of enactment of Act, each Federal agency shall develop a plan for the management of technical data received under contracts for the development, production, modification, or maintenance of major systems within its jurisdiction. Among other matters, the management plan shall address -

(A) inventory of existing data;

(B) procedures for indexing, storing, and updating items of technical data entered into the system;

(C) techniques for verifying contractor-imposed limitations on the Government's rights to make future use of the data in competitive acquisitions;

(D) procedures to assure that agency procurement officials and qualified prospective contractors will have timely access to complete and current technical data for the competitive acquisition of requirements for the maintenance of the system during its service life; and

(E) a target date by which the plan will be implemented.

(2) Not later than eighteen months after the enactment of this Section, the Comptroller General of the United States shall transmit to the Congress a report evaluating the plans of selected Federal agencies for the management of technical data

for major systems within their jurisdiction. The report shall include an evaluation of the plans of the Department of Defense, the Department of Energy and the Department of Transportation, and the National Aeronautics and Space Administration.

(3) Within five years after the date of enactment of this Act, the Comptroller General of the United States shall transmit to the Congress a report evaluating the progress of selected Federal agencies toward implementing their plans. The report shall include evaluations of DoD, DOE, DOT and NASA."

VALIDATING PROPRIETARY DATA RESTRICTIONS

Sec. 6. Section 15 of the Small Business Act is amended by adding at the end thereof the following:

"(p)(1) In order to competitively procure the maximum number of components needed to maintain a major system during its service life, a review of the validity of any restriction on the Government's rights in technical data furnished under contract shall be initiated by the contracting officer, if the contracting officer, an agency advocate for competition, or an authorized representative of the Administration determines such a review is warranted.

"(2) Upon the request of the contracting officer, the contractor shall submit its justification for the asserted restriction on the Government's rights in such data, certifying to the current validity of the asserted restriction within -

"(A) 60 days, if the contract contains a provision that requires the preparation and retention of a written justification for any restriction limiting the Government's rights in technical data to be delivered under the contract, or

"(B) 180 days, if the contract does not contain such a provision...."

Present DoD Policy. Contracting personnel challenge contractors' assertions of proprietary interest in data delivered under the contract when such proprietary interest in the specific data has not been previously determined. However, only a 60 day period is granted for a contractor to respond and support the existence of a valid proprietary interest by clear and convincing evidence (DFARS 27.403-3(d)(3)). Contractors are required to prepare and retain written justifications for restrictions on the use of technical data (52.227-7018). Therefore, the circumstances permitting a 180 day period should not occur. We agree, however, to granting contracting officers flexibility to grant an extension for good cause.

Proposed Change to Present Wording of S. 2489.

"(p)(1) In order to competitively procure the maximum number of components needed to maintain a major system during its service life, a review of the validity of any restriction on the Government's rights in technical data furnished under contract may be initiated by the contracting officer, if the contracting officer, an agency advocate for competition or the representative of the Administration assigned to the acquisition activity determines such a review is warranted.

"(p)(2) Upon the request of the contracting officer, the contractor shall substantiate by clear and convincing evidence its asserted restriction on the Government's rights in such data within 60 days; provided, however, that the contracting officer may extend this contractor for good cause shown.

> "(3) Upon a failure to submit any justification, as required by paragraph (2) of this subsection, the contracting officer shall, after notice to the contractor, promptly cancel the restriction on the Government's rights in technical data for which justification had been requested...."

Present DoD Policy. This parallels current policy (DFARS 27.403-3(d)(3)).

> "(4) If after review of the justification submitted pursuant to paragraph (2) of this subsection, the contracting officer determines that the justification for the restrictions on the Government's rights in the data does not adequately support the restrictions, the asserted limitation on the technical data and the justification therefor shall be promptly subjected to technical review and audit by qualified personnel of the agency or another Federal agency obtained through interagency agreement, or a private contractor who is capable of providing an impartial review and who shall be required to adhere to any asserted restrictions on technical data...."

Present DoD Policy. DoD presently does not provide for the use of consulting firms. However, such use is being examined and subject to varying opinions generally with a view toward permitting such use when prudent and reasonable to do so. DoD uses the term substantiate (substantiation) rather than the word justify (justification) to describe the support required of contracts for their claims of proprietary interest. Further, such substantiation must be clear and convincing evidence.

Proposed Change to Present Wording of S. 2489.

"(4) Upon the receipt of the evidence submitted pursuant to paragraph (2) of this subsection, the contracting officer shall promptly subject it to technical review and audit by qualified personnel of the agency or another Federal agency obtained through interagency agreement, or a private contractor who is capable of providing an impartial review and who shall be required to adhere to any asserted restrictions on the technical data.

> "(5) If after reviewing the findings of the technical review and audit, it is determined that the limitation on the Government's rights in the data warrants challenge, the contracting officer shall issue a final decision pertaining thereto which shall be subject to the provisions of the Contract Disputes Act (41 U.S.C. 601 et seq.)...."

Present DoD Policy. Presently this activity is implied through the ability to challenge limitation markings placed on data by contractors (52.227-7013(d)).

> "(6) If the Government's challenge to the restriction on the Government's rights in technical data as certified pursuant to paragraph (2) of this subsection is sustained, upon final disposition -
>
> > "(A) the restriction on the Government's rights in technical data shall be cancelled; and
> >
> > "(B) the contractor shall be liable to the Government for -
> >
> > > "(i) the liquidated damages specified in the contract; and
> > >
> > > "(ii) the Government's cost of technically evaluating and auditing the asserted restriction, and the fees and other expenses, as defined in Section 2412(a)(2)(A) of title 18, United States Code, incurred by the Government in challenging the asserted restriction, if the asserted restriction, as certified, is found not to be substantially justified, unless special circumstances would make such awards unjust.".

Present DoD Policy. DoD does not presently have a requirement for liquidated damages and does not otherwise seek to recoup costs resulting from challenges of a contractors data rights or for lost opportunities to compete where the challenge was sustained. The purpose of liquidated damages is to compensate the Government for its loss when the harm caused by the breach would be difficult to ascertain. The amount of liquidated damages must be a reasonable forecast of just compensation for a specific breach in the light of the situation that exists at the time that the provision was placed in the contract. The courts will customarily not enforce any such provision when it appears to be punitive in nature. Given the improbability of reasonably forecasting the extent of harm to the Government resulting from such matters as lost opportunities to compete, it seems improbable that the courts would find such a provision to be other than a penalty. It does not appear to be practical to include such a requirement in contracts. Recovery for the actual costs associated with challenging an asserted limitation, though not presently pursued, appear to merit some consideration.

Proposed Change to Present Wording of S. 2489.

"(6) If the Government's challenge to limitation on the Government's rights in technical data as certified pursuant to paragraph (2) of this subsection is sustained, upon final disposition -

"(A) the limitation on the Government's rights in technical data shall be cancelled; and

"(B) the contractor may be liable to the Government for the Government's cost of technically evaluating and auditing the asserted limitation, and the fees and other expenses, as defined in Section 2412(a)(2)(A) of title 18, United States Code, incurred by the Government in challenging the asserted limitation if the asserted limitation as certified, is found not to be substantially justified, unless special circumstances would make such awards unjust.".

Senator DIXON. I thank the Chair. I think I took up more than my share of the time.

Senator NICKLES. Senator Dixon, we appreciate your interest and leadership in this issue.

Mr. Gordon, I appreciate especially your juggling your schedule. I hope we did not keep you too late and cause you to miss your plane.

To our other panelists, we thank you as well. We do hope that you will be responsive to the committee's request for additional comments and suggestions and questions.

Thank you very much.

Senator DIXON. I hope I did not cause you to miss your plane.

Mr. GORDON. No; not at all, sir.

Senator DIXON. Thank you for your time.

[Subsequent information was received and follows:]

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United States Senate
COMMITTEE ON SMALL BUSINESS
WASHINGTON, D.C. 20510

April 17, 1984

Mr. Stuart J. Evans
Assistant Administrator for
Procurement
National Aeronautics and Space
Administration
400 Maryland Avenue, S.W.
Washington, D.C. 20546

Dear Mr. Evans:

I would like to extend to you my thanks for testifying at the Senate Small Business Committee's April 12, 1984 hearing on S. 2489, the "Small Business Competition Enhancement Act of 1984", and S. 2434, a bill to amend section 15 of the Small Business Act by requiring the assignment of breakout procurement center representatives at major procurement centers. Your written statement and your oral testimony will be very helpful to the Committee during our further consideration of these two bills.

Due to the time constraints of the hearing, several important points raised by your written statement and oral testimony were not fully explored. In order to make the hearing record complete, the Committee would greatly appreciate it if you would provide written responses to the attached questions, which will be included in the printed hearing record.

Presently, I intend to include these bills on the agenda for a Committee mark-up session scheduled for May 8th. Therefore, it is essential that your written responses be received by the Committee no later than April 27, 1984.

Your responses should be directed to the Committee on Small Business, United States Senate, Room 428A Russell Senate Office Building, Washington, D.C. 20510, to the attention of William B. Montalto, the Committee's Procurement Policy Counsel. Should you have any questions concerning this request, and any requests made during the course of the hearing, please telephone Bill at 224-5175, or Alan L. Chvotkin, Minority Chief Counsel, at 224-8497.

Again, thank you for your participation at this important Committee hearing, and for promptly furnishing the responses to our questions for the record.

With every good wish, I am

Sincerely,

LOWELL WEICKER, Jr.
Chairman

Enclosures (Omitted.)

NASA

National Aeronautics and
Space Administration

Washington, D.C.
20546

C:LVN:mdd:C-13299f

MAY 14 1984

Mr. William B. Montalto
Procurement Policy Counsel
Committee on Small Business
United States Senate
Washington, DC 20510

Dear Bill:

Enclosed are NASA's responses to the written questions from the April 12, 1984, hearing which were received on May 8.

Our records indicate that this information completes the material requested.

Sincerely,

Lynne Murphy

Lynne Murphy
Director, Legislative Planning,
  Programs and Research Division

Enclosure

25
25th Anniversary
1958-1983

QUESTIONS SUBMITTED FOR THE RECORD BY CHAIRMAN WEICKER

Question: NASA's "Detailed Comments" strongly express the concern that Section 3 of S.2489 will inhibit technology advancement development of major systems. In describing the provisions of Section 3, you state that the section's requirements are to be "accorded weight to the maximum extent practical". Section 3 actually states "to the maximum extent practicable considering the purposes for which the system is being procured (emphasis added). Through these words, the sponsors of S. 2489 were seeking to encourage the potential for competition in the acquisition of future requirements needed to maintain the major system, without causing any degradation in the technological quality of the proposals being received.

Given this clarification of Section 3, please expand upon NASA's concerns, suggesting language that might more explicitly convey the sponsors' intent.

Answer: The clarifying language lessens our concerns with the language of Section 3. Initially our concern was based on the presumption that since specific evaluation criteria would now be based in statute, such criteria might be accorded greater weight in their implementation than intended. Stated differently, greater emphasis would be placed on "off-the-shelf" technology than overall excellence of the design to satisfy mission requirements. This concern was heightened by the fact that NASA, as a matter of course, does not engage in production quantity or follow-on buys of major systems. By placing emphasis on "off-the-shelf" technology for future competition purposes, we would lose the opportunity to capture the benefits of the latest improvements in technologies.

To preserve technological quality while encouraging the potential for competition, we propose that substantially the following be substituted for 15(m)(i):

"(i) in those procurements where deemed practicable and in consideration of the purposes for which the system is being procured, evaluation criteria in any competitive solicitation for the award of a development contract for a major system may include appropriate weight for the following:"

Question: NASA's "Detailed Comments" also express substantial concern about Section 4(a) of S.2489. Again, NASA's interpretation of the provision are quite different from the intentions of the sponsors.

While the Section would require an agency to evaluate and test any business concern or its product that requested qualification in accordance with the standards enunciated by the agency, the cost of such evaluation and testing would be borne by the requestor, unless: (a) the number of qualified sources or products were fewer than five; (b) the business concern were a small business; and (c) the business concern or its product attained qualification. All three circumstances must be present before the agency would be required to bear testing and evaluation costs. The Section does grant discretionary authority for the agency to bear testing and evaluation costs under other circumstances. Further, Section 4(a) expressly exempts the costs of producing the item to be tested from the costs to be borne by the agency. Again, the bill provides only discretionary authority to the agency to bear such production costs under stated circumstances.

The "Detailed Comments" also express substantial concern over the administrative burden which Section 4(a) imposes on an agency when the number of qualified sources is fewer than five, noting that for high technology items fewer than five sources may comprise the entire marketplace. The only administrative burden that would fall upon an agency pursuant to Section 4(a) of S.2489 would be to "periodically publish notice in the Commerce Business Daily soliciting additional sources or products to seek qualification," unless a new qualified small business source came forward, offering a product ready for testing. Given the high technology marketplace in which NASA purchases, dismissing the possibility of new qualified sources seems highly inappropriate.

(a) In light of the foregoing clarification of the provision of Section 4(a) does NASA still recommend that it be completely deleted from S. 2489?

(b) If not, would NASA suggest language to more clearly express the intent of Section 4(a)?

Answer: A Qualified products list (QPL) permits the Government to efficiently procure items on which considerable testing would be required by allowing tests needed to show that the product will meet the Government's requirements to be conducted before the actual acquisition (See FAR 9.2, attached). NASA makes little use of QPL's. However, the products that it does buy are extremely critical to life or mission accomplishment or both. Using the steps provided in 15(n) would not necessarily achieve any economy. By this we mean that increasing the number of offerors does not necessarily ensure a better product or that the Government will pay lower prices for the items as the result of this requirement. For NASA to pay for qualifying a small business product may not be of benefit to either NASA or the small business. We also question the fairness of this procedure to other firms that have already borne or will bear the expense of qualification without Government assistance.

We do not object to the requirement to periodically publish a notice in the Commerce Business Daily soliciting additional sources or products for qualification.

Question: NASA's "Detailed Comments" strongly oppose the provisions of Section 4(b)(1), which seeks to enhance the quality of Commerce Business Daily notices and to ensure that small business concerns will have access to information about procurement opportunities of less than $10,000.

(a) How do the requirements of Section 4(b)(1)(A) of S.2489 differ from FAR 5.207(a) (Description of supply/service)?

Answer: FAR 5.207(a) covers transmittal of synopsis to the Commerce Business Daily. The requirements of Section 4(b)(1)(a) do not differ significantly from the requirements for synopsis item description in FAR 5.207(b) (copy attached).

(b) Do NASA's contracting officers and buyers now generally engage in acquisitions for the agency without access to the information referred to in Section 4(b)(1)(C)(i) and (ii)?

Answer: To the extent that we procure those types of items, as a general rule NASA's contracting officers use the data in 4(b)(1)(C)(i) and (ii).

However, the NASA procurement program has focussed on the acquisition of research and development in fields where the technology has rapidly advanced and where there has been no comparative base either for work descriptions or cost analysis.

(c) For a requirement that is of a recurring nature, couldn't NASA's contracting officers and buyers include "to the extent available" the forecast envisioned by Section 4(b)(1) of the bill?

Answer: As noted in our response to (b) above, NASA has a very small percentage of the types of recurring buys envisioned by Section 4(b)(1) of the bill, especially in comparison to some other agencies. To the extent that we make such purchases, we see no particular problem in including the requested information when available. However, it should be noted that past usage is not always a valid indicator of future requirements and could be confusing to firms trying to decide whether to enter a particular market or competition.

(d) Presently, don't procuring agencies have the option to provide the information required by Section 4(b)(1)(D) of S.2489 by means of a "note" in the Commerce Business Daily?

Answer: Currently FAR 5.207 (b)(4) requires this information in a synopsis. The information required by section 4(b)(1)(D)(i) and (ii) is covered in CBD notes 9 and 8, respectively.

(e) Please describe the procedure NASA now uses to inform prospective contractors of contracting opportunities under $10,000, other than direct written or telephonic solicitation?

Answer: Apart from written or telephonic solicitation, contracting opportunities under $10,000, as a rule, are posted for public viewing on "bid boards" at NASA centers. In addition, NASA is experimenting with the distribution of small purchase solicitations, including those under $10,000, at bi-monthly "Supplier Days" sponsored by the local Chamber of Commerce and held in the local community.

uation of their R&D capabilities. Contracting officers shall synopsize all subsequent solicitations for R&D contracts, including those resulting from a previously synopsized advance notice, unless one of the exceptions in 5.202 applies.

(b) *Personal and professional services.* Except when exempted by 5.202, contracting officers shall synopsize in the CBD solicitations for personal and professional services (see Subparts 37.1 and 37.2) when it is feasible and practicable to do so and in the Government's interest.

(c) *Architect-engineer services.* Except when exempted by 5.202, contracting officers shall publicize solicitations for architect-engineer services as follows:

(1) Synopsize in the CBD each contract to be made in the United States, its possessions, and Puerto Rico for which the total fee (including phases and options) is expected to exceed $10,000.

(2) When the total fee is not expected to exceed $10,000, or when the contract is to be made outside the United States, its possessions, and Puerto Rico, the contracting officer may display a notice of the proposed contract at the contracting office and use other optional publicizing methods authorized by 5.101(b).

(d) *Cost comparison under OMB Circular A-76.* When making cost comparisons between contractor and Government performance under the procedures prescribed in Subpart 7.3 and OMB Circular A-76, the contracting officer shall not arrive at a conclusion that there are no commercial sources capable of providing the required supplies or services until publicizing the requirement in the CBD at least three times in a 90 calendar-day period, with a minimum of 30 calendar days between each. When necessary to meet an urgent requirement, this may be limited to a total of two publications in the CBD in a 30 calendar-day period, with a minimum of 15 calendar days between each.

5.206 Synopses of subcontract opportunities.

(a) Contracting officers shall, if in the Government's interest and significant subcontracting opportunities exist, publish in the CBD the names and addresses of prospective offerors in accordance with subparagraphs (1) and (2) below. The synopsis shall include Numbered Note 27, which reads as follows: "It is suggested that small business firms or others interested in subcontracting opportunities in connection with the described acquisition, make direct contact with firm(s) listed."

(1) In negotiated acquisitions over $500,000, the contracting officer shall indicate in the synopsis the firms to whom solicitations will be issued (if no more than 5 firms will be solicited), to enable small business concerns and others interested in subcontracting to contact prospective prime contractors early in the acquisition.

(2) In two-step formally advertised acquisitions, the contracting officer shall indicate in the synopsis those firms that have submitted acceptable technical proposals in the first step of two-step formal advertising and will be issued solicitations in the second step.

(b) Contracting officers shall encourage prime contractors and subcontractors to use the CBD to publicize subcontracting opportunities stemming from their Government business. Subcontract information should be mailed directly to the CBD under the heading "Subcontracting Assistance Wanted," using the format in 5.207.

5.207 Preparation and transmittal of synopses.

(a) *Transmittal.* Contracting officers shall transmit synopses of proposed contracts—

(1) By the most effective transmission means or devices available, or if no other, daily via first class mail; and

(2) Addressed to the following:

U.S. Department of Commerce
Commerce Business Daily
P.O. Box 5999
Chicago, IL 60680.

(b) *Format.* Contracting officers shall prepare synopses in the following format:

(1) *General.* Use conventional typing with upper and lower case letters, standard punctuation, and commonly used abbreviations. Write text in such detail that it will be understood by interested parties.

(2) *Spacing.* Begin lines in the text, except paragraph beginnings, flush with the left margin. Use double-spaced lines. Put each separate proposed contract in a separate paragraph.

(3) *Contracting office and address.* Begin the name and address of the contracting office on the first line of the text. Do not abbreviate except for the names of States. The address shall include an attention phrase identifying the person to contact for further information, including title, code, and telephone number.

(4) *Description of the supply/service.* Begin five spaces from the left margin, several lines under the name and address of the contracting office. Type the following elements, to the extent applicable, horizontally in the following sequence, with each element separated by two hyphens:

(i) Supply/service classification code (see 5.207(f)) (if more than one classification is involved, enter the code for the one with the largest dollar volume).

(ii) Name of supply/service.

(iii) National stock number (NSN), if assigned.

(iv) Specification, including notation "QPL" if the specification requires a qualified product.

(v) Manufacturer, including part number, drawing number, etc.

(vi) Size or dimensions.

(vii) Basic material from which fabricated

(viii) Quantity, including options for additional quantities.

(ix) Unit of issue.

(x) Destination information.

(xi) Delivery schedule.

(xii) Solicitation number.

(xiii) Solicitation opening and closing dates.

(xiv) Duration of the contract period.

(xv) For architect-engineer projects, and other projects for which the codes are insufficient, brief details of the location, scope of services required, cost range and limitations, type of contract, estimated starting and completion dates, and significant evaluation factors by which selection will be made.

(xvi) Numbered Notes (see 5.207(d)), including instructions for set-asides for small businesses and labor surplus area concerns.

(5) *Supplies subject to the Trade Agreements Act of 1979.* See Part 25.

(c) *Set-asides.* (1) When the proposed acquisition provides for a total small business or labor surplus area (LSA) set-aside, state: "The proposed contract listed here is a 100-percent small business (or labor surplus area) set-aside."

(2) When there is a proposed partial small business or LSA set-aside, state: "An additional quantity of .... is being reserved for .... [*insert 'small business' or 'labor surplus area' as appropriate*] concerns under a partial determination."

(d) *Numbered Notes.*

(1) The first issue of the CBD each week lists all current "Numbered Notes." The Notes describe how to respond to the synopsis of a proposed contract; the qualifications a prospective contractor must have to be considered for an award; and the availability of plans, specifications, or other information. When one or more of the Notes applies to a synopsis, contracting officers should incorporate the content of the Note(s) by reference at the end of the synopsis; e.g., "See Note(s) ...." New Notes may be added to the list only when they apply to more than one agency. Contracting officers shall also include the substance of Numbered Notes whenever a proposed contract is publicized by other means than the CBD (see 5.101).

(2) If the acquisition is subject to the requirements of the Trade Agreements Act of 1979 (see 5.207(b)(5)), Numbered Note 12 shall be referenced in the synopsis.

(e) *Information not covered by Numbered Notes.* To alert prospective contractors to information not covered by Numbered Notes, contracting officers should identify the following unusual circumstances in the synopsis:

(1) "*Availability of specifications, plans, or drawings.* It is impracticable to distribute the applicable .... [*insert 'specifications,' 'plans,' 'drawings,' or other appropriate words*] with the solicitation. These contract documents may be examined or obtained at................................"

(2) "*Availability of background research report.* This contract for basic research is a continuation of an effort conducted for the past .... [*insert period*]. A research report containing findings to date is not available to the Government."

(3) "*Production requirements.* The production of the supplies listed requires a substantial initial investment or an extended period of preparation for manufacture."

(4) "*Standardization requirements.* This contract is for technical equipment. A determination was made under section 15.213 of the Federal Acquisition Regulation that standardization and interchangeability of parts are necessary in the public interest. To achieve standardization, solicitations will be issued only to the following firms: ....[*insert names and addresses of these firms*]."

(f) (1) The contracting officer shall use the following classification codes to describe services:

Code	Description
A	Experimental, developmental, test, and basic and applied research work.
H	Expert and consultant services.
J	Maintenance and repair of equipment.
K	Modification, alteration, and rebuilding of equipment.
L	Technical representative services (e.g., services of technical specialists required to assist with the installation, checking, operation, and maintenance of complex equipment).
M	Operation and maintenance of Government-owned facility.
N	Installation of equipment (use code K if the contract also involves modification, alteration, or rebuilding of the equipment).
O	Funeral and Chaplain services.
P	Salvage services (services required to salvage property of any kind).
Q	Medical services.
R	Architect-engineer services.
S	Housekeeping services; e.g.—
	Utilities (gas, electric, telephone, etc.);
	Laundry and dry cleaning;
	Custodial-janitorial;
	Insect and rodent control;
	Packing and crating;
	Storage;
	Garbage and trash collection;
	Food;
	Fueling;
	Fire protection;
	Building and grounds maintenance;
	Care of remains-funerals; and
	Guards.
T	Photographic, mapping, printing, and publication services; e.g.—
	Film processing;
	Cataloging;
	Charting;
	Reproduction;

(d) Furnishing QPL's to prospective offerors and the public upon request.

(e) Clarifying, as necessary, qualification requirements.

(f) In appropriate cases, when requested by the contracting officer, providing and publicizing written waivers of qualification requirements.

(g) Withdrawing or omitting qualification of a listed product, as necessary.

(h) Advising persons furnished a QPL, and suppliers whose products are on a QPL, that—

(1) The QPL does not constitute endorsement of the product by the Government;

(2) The products listed have been qualified under the latest applicable specification;

(3) The QPL may be amended without notice;

(4) The listing of a product does not release the supplier from compliance with the specification; and

(5) Use of the QPL information for advertising or publicity is permitted. However, the supplier must not state or imply that the product is the only product of that type qualified, or that the Government in any way recommends or endorses the product.

(i) Reexamining a qualified product when—

(1) The manufacturer has modified the product, changed the material or the processing sufficiently so the validity of previous qualification is questionable;

(2) The requirements in the specification have been amended or revised sufficiently to affect the character of the product; and

(3) It is necessary to determine that the quality of the product is maintained in conformance with the specification.

9.204 Justification for including qualification requirements.

Subject to approval within the SPA's parent agency at a level above the head of the SPA, a qualification requirement may be included in a specification when any of the following conditions exist:

(a) The time required to conduct the examinations and tests to determine compliance with all the technical requirements of the specification will exceed 30 days (720 hours).

(b) The necessary examinations and tests for qualification would require special equipment not commonly available.

(c) The specification covers life survival or emergency lifesaving equipment.

9.205 Opportunity for qualification before solicitation.

(a) If the SPA determines that a product is to be qualified, the SPA shall urge manufacturers to submit their products for qualification and, when possible, give manufacturers sufficient time to arrange for qualification before issuing a solicitation. The SPA shall furnish notice of the qualification requirement to the U.S. Department of Commerce, Office of Field Operations, P.O. Box 5999, Chicago, Illinois 60680, for synopsis in the Commerce Business Daily. The notice shall include—

(1) Intent to establish a QPL for a product;

(2) The specification number and name of the product;

(3) The name and address of the SPA to which the request for qualification should be submitted;

(4) The cut-off date for submission of products for qualification testing;

(5) A precautionary notice that the product submitted for qualification testing will not be tested until the applicant has furnished the SPA with any specific information that may be requested of the manufacturer;

(6) Notification that upon the establishment of a QPL for the product, consideration in all future awards for the product will be given only to those products accepted for inclusion in the applicable QPL's; and

(7) The approximate time period following submission of a product for qualification testing within which the applicant will be notified by the SPA whether the product passed or failed the qualification testing.

(b) The SPA shall keep QPL's open for inclusion of products from additional suppliers, including eligible products from designated countries under the terms of the International Agreement on Government Procurement.

9.206 Acquiring qualified products.

9.206-1 General.

(a) If qualified products are being acquired, the contracting officer shall consider only those offers that offer products identified in the offer as qualified for inclusion in the QPL applicable at the time set for opening of bids or award of negotiated contracts.

(b) If a qualified product is to be acquired by the prime contractor as a component of an end item, the contracting officer shall require the prime contractor to furnish a component that is a qualified product before award of a subcontract for the component. Any delay resulting from the prime contractor's awaiting qualification approval of a component by the Government shall not constitute excusable delay if a previously qualified component could have been acquired by the prime contractor in time to meet the end item delivery schedule (see the clause at 52.209-2, Qualified Products—Components of End Items).

(c) In acquisitions involving qualified products, the contracting officer shall take the following steps:

(1) Use presolicitation notices in appropriate cases to advise potential suppliers before issuing solicitations involving qualified products. The notices shall identify the specification requiring qualification and specify an allowable time period, consistent with delivery requirements, for prospective offerors to qualify their products. The notice shall be synopsized in

accordance with 5.204. If a presolicitation notice is not used, the general synopsizing requirements of Subpart 5.2 apply.

(2) Distribute solicitations to prospective contractors whether or not their products are qualified.

(3) In appropriate cases, request the SPA to waive qualification requirements and specify in solicitations when qualification requirements are waived.

(4) Forward requests from potential suppliers for information on qualification to the SPA.

(5) Allow the maximum time, consistent with delivery requirements, between issuing the solicitation and the opening of bids or the award of a negotiated contract. This period shall be not less than 30 calendar days, unless urgency justifies a shorter period and the contracting officer documents the file accordingly.

9.206-2 Solicitation provision and contract clause.

(a) The contracting officer shall insert the provision at 52.209-1, Qualified Products—End Items, in solicitations when acquiring qualified products as end items.

(b) The contracting officer shall insert the clause at 52.209-2, Qualified Products—Components of End Items, in solicitations and contracts, when acquiring qualified products as components of end items.

9.206-3 Competition.

(a) *Presolicitation*. If qualified products are to be acquired as an end item, the contracting officer shall review the applicable QPL before solicitation to ascertain whether the number of sources is adequate for competition. If the number of sources is inadequate, the contracting officer shall request the SPA to—

(1) Indicate the anticipated date on which any products presently undergoing tests will be qualified so that the solicitation could be rescheduled to include these additional products; or

(2) Indicate an alternate means of quality assurance other than qualification.

(b) *Postsolicitation*. The contracting officer shall submit to the SPA the names and addresses of concerns who request copies of the solicitation and are not included on the QPL. The SPA may then try to interest those concerns in qualifying their products.

9.207 Removal or omission from a qualified products list.

The contracting officer shall promptly report to the SPA conditions that may merit removal or omission of a product from a QPL. These conditions exist when—

(a) Products are submitted for inspection that do not meet the specification;

(b) Products were previously rejected and the defects were not corrected when resubmitted for inspection;

(c) The supplier fails to request reevaluation of a qualification following change of location or ownership of the plant where the qualified product was manufactured (see the provision at 52.209-1, Qualified Products—End Items, and the clause at 52.209-2, Qualified Products—Components of End Items);

(d) The manufacturer has discontinued manufacture of the product;

(e) The supplier requests removal of the item from the QPL;

(f) A condition of the qualification was violated; e.g., advertising or publicity contrary to 9.203(h)(5);

(g) Revised specifications require new testing and qualification;

(h) Manufacturing or design changes require new testing and qualification;

(i) The manufacturer is on the Consolidated List of Debarred, Suspended, and Ineligible Contractors (see Subpart 9.4) (the SPA may remove or omit a product from a QPL for this condition without advance notification but will subsequently notify the manufacturer of the action taken); or

(j) Performance of the contract, under which qualified products are furnished, is otherwise unsatisfactory.

SUBPART 9.3—FIRST ARTICLE TESTING AND APPROVAL

9.301 Definitions.

"Approval," as used in this subpart, means the contracting officer's written notification to the contractor accepting the test results of the first article.

"First article," as used in this subpart, means preproduction models, initial production samples, test samples, first lots, pilot lots, and pilot models.

"First article testing" means testing and evaluating the first article for conformance with specified contract requirements before or in the initial stage of production.

9.302 General.

First article testing and approval (hereafter referred to as testing and approval) ensures that the contractor can furnish a product that conforms to all contract requirements for acceptance. Before requiring testing and approval, the contracting officer shall consider the—

(a) Impact on cost or time of delivery;

(b) Risk to the Government of foregoing such test; and

(c) Availability of other, less costly, methods of ensuring the desired quality.

9.303 Use.

Testing and approval may be appropriate when—

(a) The contractor has not previously furnished the product to the Government;

(b) The contractor previously furnished the product to the Government, but—

(1) There have been subsequent changes in processes or specifications;

(2) Production has been discontinued for an extended period of time; or

LOWELL WEICKER, JR., CONN., CHAIRMAN
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ROBERT J. DOTCHIN, STAFF DIRECTOR
R. MICHAEL HAYNES, CHIEF COUNSEL
ALAN L. CHVOTKIN, MINORITY CHIEF COUNSEL

United States Senate
COMMITTEE ON SMALL BUSINESS
WASHINGTON, D.C. 20510

April 17, 1984

Mr. Barnett M. Anceleitz
Director
Office of Installation of Logistics
and the Procurement Executive
U. S.Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590

Dear Mr. Anceleitz:

I would like to extend to you my thanks for testifying at the Senate Small Business Committee's April 12, 1984 hearing on S. 2489, the "Small Business Competition Enhancement Act of 1984", and S. 2434, a bill to amend section 15 of the Small Business Act by requiring the assignment of breakout procurement center representatives at major procurement centers. Your written statement and your oral testimony will be very helpful to the Committee during our further consideration of these two bills.

Due to the time constraints of the hearing, several important points raised by your written statement and oral testimony were not fully explored. In order to make the hearing record complete, the Committee would greatly appreciate it if you would provide written responses to the attached questions, which will be included in the printed hearing record.

Presently, I intend to include these bills on the agenda for a Committee mark-up session scheduled for May 8th. Therefore, it is essential that your written responses be received by the Committee no later than April 27, 1984.

Your responses should be directed to the Committee on Small Business, United States Senate, Room 428A Russell Senate Office Building, Washington, D.C. 20510, to the attention of William B. Montalto, the Committee's Procurement Policy Counsel. Should you have any questions concerning this request, and any requests made during the course of the hearing, please telephone Bill at 224-5175, or Alan L. Chvotkin, Minority Chief Counsel, at 224-8497.

Again, thank you for your participation at this important Committee hearing, and for promptly furnishing the responses to our questions for the record.

With every good wish, I am

Sincerely,

LOWELL WEICKER, Jr.
Chairman

Enclosures (Omitted.)

U.S. Department of Transportation
Office of the Secretary
of Transportation

400 Seventh St., S.W.
Washington, D.C. 20590

July 10, 1984

The Honorable Lowell Weicker, Jr.
Chairman, Committee on Small Business
United State Senate
Washington, D. C. 20510

Dear Mr. Chairman:

In response to your letter of April 17, 1984, I have enclosed written responses to the questions you posed. If I can be of further assistance, please let me know.

Sincerely,

Barnett M. Anceleitz

Barnett M. Anceleitz
Director of Installations
and Logistics

Enclosure

QUESTIONS FOR MR. ANCELEITZ (FROM SENATOR DIXON)

- "Does the Government have a need for complete and accurate technical data if that can be made available, so that it will be able to compete certain requirements?"

  Answer: There are times when the Government needs complete and accurate technical data - when it has a requirement to procure spare parts, systems, or equipment, and it needs the data to be able to compete its subsequent requirements.

- "When the Government "pays" for the development of an item, in whole or in part, does the Government have rights to that item, and rights in the data necessary to develop and reproduce that item?"

  Answer: The Government may or may not have the rights to the data to reproduce the item. If the developer owns "background" patents in which the Government does not have any right that cover parts of the item, the Government would be liable for infringement of those patents if anyone other than the developer or its licensees, reproduced the item for the Government. The Government could purchase the rights to background patents, or make other agreements with the owner of these patents to acquire unlimited rights, if needed.

- "Does the Government have a legitimate right to require the delivery of technical data to back up a purchase when that item is Not covered by claims of proprietary data?"

  Answer: It depends. The contract between the Government and the contractor should spell out the specific requirements of each party. If the Government requires delivery of data, it should specify the terms and conditions concerning delivery of that data in the contract.

- "Must the phrase "developed at private expense", have a single definition that is uniformly applied across all agencies, if possible?"

  Answer: I believe it would be advantageous to have a uniform definition. Both the contractors and the Government would benefit from the consistency and predictability that would result from use of a standard, single definition set forth in the Federal Acquisition Regulation.

- "If a non-commercial item is not developed with Government funds, is it your view that any proprietary rights should rest solely with the private concern and be solely under the control of that private concern?"

  Answer: Yes. If the Government desires to obtain rights in such an item, it should negotiate with the contractor for its purchase.

- "Do you have an opinion about the recommendations of some that the proprietary data rights to a system sold to the Government become the property of the Government after a fixed period of time?"

  Answer: In my opinion, this practice may lead to substantially increased costs, and quite possibly to diminished competition. If the Government wants to purchase those proprietary data rights, it should negotiate with the contractor to do so.

- "During the planning for a procurement, should the Government be able to know in advance the extent to which its purchase may be covered by a firm's claims of proprietary data that may inhibit competition on future reprocurements?"

  Answer: Yes, the Government should insist upon the identification of data for which the contractor claims proprietary rights.

- "Should a contractor be given the opportunity to propose to the Government that the contractor will sell or license its proprietary data if it so chooses, and to provide an estimate of that cost to the Government for that sale or license?"

  Answer: Yes, when the Government has a need for this data.

- "If a system's functional performance will be the same as between a system where the Government could have the technical data necessary for reprocurement, and a system where it has no access to that data, shouldn't the Government have the opportunity to purchase the system where the data is offered?"

  Answer: Yes.

- "Mr. Adams says on page 8 of his statement that it is not possible to tell whether proprietary data is accurate just by looking at it. Please explain the system the Government uses to challenge claims of proprietary data?"

- "Once a claim of proprietary data has been asserted, or a restricted Procurement Method Code assigned, is it periodically reviewed?"

  Answer to both questions: I believe that Mr. Adams' statement refers to the "accuracy" of the claim that certain data is proprietary, and not to the "accuracy" of the data itself. DOT challenges claims of proprietary on a case-by-case basis, when the contracting officer or technical monitor of the contract has reason to believe that the data is not proprietary. The Department does not review routinely all data on which propriety claims have been asserted, or prevously found to be valid.

- "Does the Department of Transportation use any type of qualified bidders lists? If so, what types of lists are maintained? Do you also use qualified products lists?"

Answer: The Department uses Qualified Bidders Lists only for audio-visual procurement as required by the Office of Management and Budget's Office of Federal Procurement Policy. The lists are entitled "Qualified Film Producers List" and "Qualified Video Producers Lists." With respect to qualified product lists, the Coast Guard uses such lists in only a small number of cases, and I believe this is the only administration in the Department to use these lists. The QPL lists that the Coast Guard has established, or are in the process of being established, are set forth below with the names of the qualified bidders on the list:

QPL-195 12 Volt Six Place Lampchanger. Established 21 August 1969

1. C-R Control Systems, Inc., Orlando, FL- Small Business
2. Vap-Air Division, Chicago, IL - Large Business

QPL-339A Fluorescent Elastomeric Films, Specification No. G-EOE-339A dated October 1980. Established 22 July 1983

1. MACTAC, Stow, Ohio - Large Business
2. American Decal & Mfg. Co., Jersey City, NJ-Small Business
3. Minnesota Mining & Mfg. Co., St. Paul, MN-Large Business

QPL-10501 155MM Buoy Lantern. Established 8 February 1979

1. Amerace Corporation, Niles, IL - Large Business
2. Tideland Signal Corporation, Houston, TX-Small Business

QPL-10505 Daylight Controls for Solid State Flashers. Established 29 September 1983

1. Silicon Sensors, Inc., Dodgeville, WI-Small Business
2. Vactec, Inc., St. Louis, MO-Small Business

QPL-10506 5th & 6th Class Buoys. Amended August 1979

1. Roylan Mfg. Co., Inc., Menomonee Falls, WI-Small Business
2. Automatic Power Division, Penwalt Corporation, Houston, TX-Large Business
3. Environmental Plactics, Inc., Burbank, CA-Small Business

QPL'S IN THE PROCESS OF BEING ESTABLISHED

1. 12-Volt Solid State Flasher, Purchase Description 181-D
2. Fluorescent Elastomeric Films, Specification No. G-EOE-339B dated April 1984. Revision of Specification No. G-EOE-339A.
3. High Intensity Retroreflective Films, Specification No. G-EOE-393 dated March 1984.

o "Your statement (page 2-3) says these prequalification requirements are a major barrier to small business competition. How do you see these lists operating as a major barrier to competition?"

Answer: Qualified Products Lists preclude competition. They allow only those companies that are on the list or which can document that they can provide a product which is equal to that on the QPL. They pose an administrative burden to companies that try to compete for Government business.

- "What safeguards does the FAR contain on Q-P-L's? What standards does the FAR adopt on qualified bidders?"

Answer: The FAR limits consideration of a qualification requirement to those items requiring lengthy testing procedures, requiring special test equipment, or involving life survival or emergency lifesaving. The specification preparing activity (SPA) must publish in the Commerce Business Daily a detailed notice of intent to establish a QPL for a product. The FAR requires the contracting offcer to take specific steps to ensure maximum opportunity for potential suppliers to qualify their products. The contracting officer must also review an applicable QPL, prior to solicitation, for ways to enhance competition. The primary standard adopted by FAR for qualified bidders is that the contracting officer shall consider only those offers (bids) that offer products identified in the offer as qualified for inclusion in the QPL applicable at the time set for opening of bids or award of negotiated contracts.

- "In your statement (page 3-4), you oppose some of the provisions on enhancing the notice in the Commerce Business Daily. Would a higher statutory threshold, say for procurement with an estimated purchase future of say $100,000, justify the inclusion of this additional information?"

While the higher threshold would ease the administrative burden on the Department, we still believe that companies "in the business" are aware of the requirements of the trade in their respective industry. Therefore, we do not believe that the regular inclusion of the proposed information is desirable or necessary.

- "On page 4, on technical data, you seem to suggest that a uniform Federal definition of "developed at private expense" must be reached and uniformly applied. Is the Office of Federal Procurement Policy the most appropriate agency to be directed to consult with all of the procuring agencies and arrive at an acceptable definition which must then be included in all contracts?"

Answer: While a common definition could be achieved in several alternative ways, I believe that the most appropriate agency to direct such an effort is the Office of Federal Procurement Policy.

Senator NICKLES. Our next panelist is Frank Swain, chief counsel for advocacy, Small Business Administration.

Mr. Swain, welcome again before this committee. You have been here several times, and we appreciate your attendance and input. Please proceed.

STATEMENT OF FRANK S. SWAIN, CHIEF COUNSEL FOR ADVOCACY, SMALL BUSINESS ADMINISTRATION

Mr. SWAIN. Thank you, Mr. Chairman.

As you suggested at the opening of the hearings, I will be happy to summarize my statement and refer to what I think are the key points of the discussion.

I appreciate the opportunity to testify today concerning S. 2489, the Small Business Competition Enhancement Act of 1984, and related bills.

When discussing the specifics of procurement legislation, we always need to bring ourselves back to the basic reason why the Congress is interested, which is that there is a lot of buying going on in the Federal Government, $160 or $170 billion a year. A large part of the buying is by the Department of Defense, but there are several other large buying agencies, and I think it is appropriate that any legislation apply to all agencies, unless there are very specific and important reasons not to do so.

I think that the Nation as a whole is concerned about enhancing competitive procurement, and small business is particularly concerned, not only because it is a good deal for the taxpayer—the more competition we have, the less the procurement ought to cost and the more efficient it ought to be—but also small business does better where there is more competition.

The charts which I have brought along with me, which are on the easels here and attached to the prepared statement, illustrate that.

The chart on the left entitled, "Small Business Competition," indicates that most small firms get involved in Federal procurement in a competitive situation. In the years that were tracked by a study using the Federal Procurement Data Center numbers, three-fourths of the small business contract awards were competitive; only one-fourth were noncompetitive.

The other chart indicates that the same is not the case for larger firms that get involved, or let me put it the other way: the Federal Government is more apt to deal with large firms on a sole-source basis and less apt to deal with small firms on a sole-source basis.

Obviously, there are instances where sole-source is appropriate. I am not here to discuss that, but simply to suggest that the reason to open up the competitive process is because small business is really behind the eight ball right now. They cannot get into the system because most of the contracts are sole-source or there is not an adequate opportunity for small business to break into the system. Every section of this legislation is dedicated to trying to rationalize and reform a particular part of the procurement process to ensure that more information goes out to potential bidders, that contracts will be let more competitively, and that there is greater opportunity to draw on the resources of the small business community in defense procurement.

Procurement legislation should not involve small business in defense or any other type of procurement just because it is a pro-small-business policy but rather because it is a procompetition and because it is protaxpayer.

With this in mind, Mr. Chairman, it seems that any good small business procurement reform measure should contain at least the following three elements: First, the elimination or reduction of obstacles to participation by small businesses in the procurement process, that is, the extent to which agencies should be allowed to use prequalification of sources, bidders, and products as procurement techniques.

Second, planning for ways to increase competitive procurement of spare parts and other items for future major systems before the initial production phase and devising a system for validating proprietary data claims for items on existing contracts.

Finally, increased use of breakout procurement center representatives at major procurement centers.

Very briefly, I would like to make a few remarks on each of those three major provisions in S. 2489.

On the issue of qualified products lists, I have had small business owners tell me, "We really don't mind a qualified products list if we know what has to be produced and what the quality is that is demanded by the buying agency. We are proud enough of our capability that we can machine or produce within whatever degree of specificity or precision is required." The issue is not whether the Defense Department or any other agency ought to be buying qualified products; they certainly ought to be. The issue is that there are a lot of people out there that are able to sell qualified products that never can get into the system because of the way in which the qualified products list and the qualified bidders lists are used now.

I think it bears noting that this bill takes a different and fairly finely tuned approach to qualified products lists. From our reading of the current laws, there is no mention of qualified products lists. As you may know, there is legislation pending from the House Small Business Committee that would actually abolish all use of qualified products and qualified bidders list. This legislation takes a scalpel-like approach and says that qualified products lists may be used in certain situations where it is necessary to obtain certain products, but in order to use those lists agencies have to make sure that the specifications that they are using are advertised to the widest degree possible, so as to enable many firms to get onto that list and start producing those qualified products.

I would like to mention that I was interested by Mr. Gordon's statement that there are really so few qualified products lists provisions in the current parts procurement system that this proposal is a bit of overkill. I would turn that argument around. If there are so few qualified products lists being used now, why is it inconvenient at all to make sure that the process is opened up?

I do think S. 2489 is carefully drawn. There has been a significant buildup in the defense budget over the past couple years and the Defense Department and other major agencies are making key decisions right now on future major systems. We may have only a small problem now, but the time to solve it is right now, not in the future when a small problem now may be growing very large. Then it will be very difficult, indeed, to make people change their habits and their attitudes and solve these problems. Therefore, I think it is the perfect time to take a look at this issue.

Would advertisement in the *Commerce Business Daily* and synopsis be a costly administrative requirement? Well, it would certainly be an administrative requirement; I don't know how costly it would be. Obviously, any time you suggest that an organization, whether it is a Government organization or a private organization, do something differently or change its procedures, there is a certain degree of change involved.

I would simply remind the committee that this committee's legislation on the *Commerce Business Daily* [CBD], which was passed about a year ago, at that time was opposed by the Department of Defense. However, the President signed the bill despite the opposition and, in fact, took pride in the bill in his latest statement on the state of small business. I think it is something that people are living with in one way or another, and will continue to adjust to if more modifications are made.

If the Commerce Business Daily gets too large, I am sure there will be a lot of small businesses out there that will synopsize the CBD themselves and sell it to the people that are in the defense industry, both small and large business.

Senator NICKLES. Mr. Swain, could you wrap it up quickly?

Mr. SWAIN. Yes, sir.

Senator NICKLES. Perhaps in 5 minutes? We are going to have to move because we have a lot of other panelists as well.

Mr. SWAIN. I will simply state that the second major set of provisions on planning for future competition and validating proprietary data claims are an essential parts of the legislation.

I think that the legislation is carefully thought out and that it treats both data claims under current systems and future data claims. It is obviously important to cover both areas. We would have some specific suggestions that we would be happy to discuss with committee counsel.

Finally, I would make the point on the section of the bill relating to the breakout procurement center representatives. I was intrigued to hear that the other agencies felt that was a grand idea and we ought to just wait to see whether it is a success or not. I think it is safe to say that from my standpoint as chief counsel for advocacy and from the standpoint of the Small Business Administration as a whole, we do regard that program as a success. I am not sure how much longer we need to wait. Our position is that it is a success right now. We see no reason not to expand it immediately.

I would finally just sum up by saying that it has been suggested that the timing for this bill is wrong, that there are a lot of administrative changes taking place, the FAR is going into effect, and so on. Any administrative change is helpful. This is obviously a situation that has great national policy impact not only budget policy but also procurement policy which will insure that there is active competition and which will allow small firms an open opportunity to participate in Government contracting.

It is the Congress ability to make sure that the very good administrative actions that are being taken now would not be undone in some later years if the wind should shift for some reason, that can best be done by enacting a statute. I hope that the committee will report out this legislation, so that important reform of Federal procurement will assist small business.

I appreciate the committee's patience.

[The prepared statement of Mr. Swain follows:]

U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

STATEMENT OF
FRANK S. SWAIN
CHIEF COUNSEL FOR ADVOCACY
BEFORE THE
COMMITTEE ON SMALL BUSINESS
OF THE
U.S. SENATE
APRIL 12, 1984

Increasing Competition in Federal Procurement

Mr. Chairman and Committee Members:

Thank you for the opportunity to testify today concerning S. 2489, the "Small Business Competition Enhancement Act of 1984," and related bills. S. 2489 is an important initiative because it recognizes that one important aspect to solving the "spare parts" problems which have received such extensive media attention in recent months is through increased competition in the procurement of such items. This "process" approach to the problem distinguishes the bill from many of the other proposals on the same subject currently being considered by various committees of both the House and Senate.

I would like to state, Mr. Chairman, that this testimony reflects the views of the Office of Advocacy and not necessarily those of the Administration. To the extent that we support S. 2489 overall, and would like to see the legislation enacted into law, our position is largely consistent with that of the General Accounting Office and the Department of Defense Inspector General's Office as presented in testimony to this Committee on April 6, 1984.

Enhanced competitive procurement procedures benefit both the public and small businesses. According to data compiled by the Federal Procurement Data Center (FPDC), negotiated noncompetitive, or sole-source, methods of contracting accounted for almost 60 percent of FY 1980 contract dollars over $10,000. Of this amount, small businesses received only 7.2 percent. When one compares this with a 35 percent small business share of dollars obligated through formally advertised contracts, it becomes clear that small businesses benefit from more open and competitive procurements. To make the same point in another way, Mr. Chairman, the following charts, which are based on data contained in the President's 1984 Report on The State of Small Business, show that while small businesses received 74 percent of their contract dollars through competitive contracting methods during the Fiscal Year 1979-1982 period, large businesses received only 33 percent through competitive methods during the same period. Competitive procurements also benefit the public through lower costs associated with increased participation by all businesses in the procurement process.

With the above in mind, Mr. Chairman, it seems that any good small business procurement reform measure should contain at least the following three elements: (1) elimination or reduction of obstacles to participation by small businesses in the procurement process. The issue here is the extent to which agencies should be allowed to use prequalification of sources (bidders and products) as procurement techniques; (2) planning for ways to increase competitive procurement of spare parts and other items for future major systems before the initial production phase, and devising a system for validating proprietary data claims for items on existing contracts; and (3) increased use of Breakout Procurement Center Representatives (BOPCRs) at major procurement centers. Let me briefly comment on the provisions of S. 2489 as they relate to the above goals.

I. Prequalification of Sources

Mr. Chairman, as you are aware, some agencies, particularly at the Department of Defense (DOD), use Qualified Bidders Lists (QBL) and Qualified Products Lists (QPL) as procurement techniques for assuring quality of "critical" items. The maintenance of such lists is not currently sanctioned by statute, although QPLs do have a regulatory basis (DAR 1-1101). While the purpose of such lists may be laudable, as a practical matter they are anticompetitive because they restrict the number of participants in procurements before solicitations are even issued. Such lists can thus be viewed to operate as de facto responsibility determinations (or nonresponsibility determinations for those contractors who are unable to qualify before specific purchases are made of products on lists).

S. 2489 does not eliminate QPLs and QBLs. Rather, it gives these prequalification techniques legitimacy through statute, while at the same time imposing restrictions on their use. Thus, Section 4 of the bill states that if an agency uses a prequalification requirement, it must: (a) prepare a written justification; (b) specify standards in writing that are necessary to become "qualified"; (c) promptly provide the opportunity to qualify; and (d) provide test results, including reasons for failure to qualify. In the event that the number of currently qualified sources is less than five, the bill also requires the agency to periodically advertise for additional sources through the Commerce Business Daily (CBD), and to underwrite or waive the costs of prequalification tests for small businesses ultimately determined to be qualified.

We support the above provisions, Mr. Chairman, particularly the provision requiring the Government to absorb prequalification test costs for small businesses ultimately determined to be qualified. Another approach which the Committee might want to consider would be to specifically prohibit use of QBLs, relying instead on pre-award surveys, responsibility determinations and first article testing to eliminate unqualified contractors. Use of QPLs could then be expressly sanctioned as a means of assuring quality of genuinely critical parts, subject to the restrictions already contained in Section 4 of the bill.

II. Planning for Future Competition and Validating Proprietary Data Claims

Sections 3, 5 and 6 of the bill deal with the critical issues of government acquisition of and accessibility to technical data rights for components of major systems, and validation of proprietary data claims asserted by prime contractors. Obviously, if the government does not own or cannot access technical data for system parts, it is impossible to devise specifications that provide the basis for competitive procurement or "breakout" of the item. The bill addresses these issues from two basic perspectives, one as applied to existing major systems, and one as applied to future systems.

With respect to existing systems, obviously in most cases technical data rights are already determined as between the government and prime contractor in the contract document itself and in general procurement regulations. Any attempt to retroactively reallocate such existing rights could raise serious deprivation of property issues for the government. Section 6 of the bill avoids this possible pitfall by turning the focus on trying to ensure that existing technical data rights are being properly enforced as between the government and prime contractors. The bill basically establishes a legal challenge system for reaching contractor claims of proprietary rights in technical data. The contractor must have a written certification in the file justifying each claim of proprietary data rights. If the claim is challenged by the government, or by a private "data checker" retained by the government, and the contractor does not accept the government's determination of the claim, the contractor will have to absorb all litigation costs and pay liquidated damages if the government's position is subsequently upheld by a court or contract appeals board.

Mr. Chairman, although the intent of this legal challenge system is to deter contractor assertions of dubious proprietary data claims, the provisions as drafted may not fully accomplish that goal. For example, a large prime contractor might make a rational decision to continue to assert proprietary claims of marginal validity against the remote possibility that some of the claims might be challenged and ultimately resolved against the contractor in a court. The only real risk in such a decision would be the monetary penalties. An alternative proposal for solving this problem of contractors asserting specious proprietary data claims may be to consider establishing by statute a legal presumption that the government has unlimited technical data rights to all items, components and processes of existing systems. This would put an affirmative burden on the contractor to establish proprietary data rights on an item-by-item basis. I would be happy to supply the Committee with some specific language if it is interested in this approach.

With respect to future major systems acquisition, there are clearly greater opportunities for planning for increased competitive procurement of spare parts and other system components. To this end, Section 3 of the bill aims at encouraging greater attention to increasing competitive procurement of "downstream requirements" at the design and pre-production phases, which is where such planning should occur. The bill provides strong incentives to major contractors by linking the contract award decision to the degree that their proposals enhance the opportunities for competition of "downstream requirements." We fully support establishment of such a proposal evaluation system that focuses on the extent to which the prospective contractor devises means for enhancing competitive procurement of spare parts and other components. Perhaps this approach could be formalized a little bit more by incorporating a "Spare Parts Supply Plan" (SPSP) as an express requirement for inclusion in all proposals for major systems production. This would make it clear to prospective contractors that the government attaches importance to the contractor's proposal in this area.

III. Increased Use of Breakout Procurement Center Representatives (BOPCRs)

As you know, Mr. Chairman, the Small Business Administration has a pilot Spare Parts Breakout Program currently in effect. Breakout Procurement Center Representatives (BOPCRs) have been placed at four of the Air Logistics Centers of the Air Force Logistics Command. Mr. Frank Miller, who testified before this Committee last week, is one of these BOPCRs. The primary function of the BOPCRs is to identify spare parts that are being procured on a noncompetitive or sole source basis, and "breakout" these items to competition whenever possible. To date, the program has been a phenomenal success. The GAO reports that as a result of the efforts of the BOPCRs, 1,634 items were broken out at a savings of $35.8 million dollars. In a separate study, SBA showed savings of $6.7 million - 38 percent - when only 181 parts were broken out for small business competition.

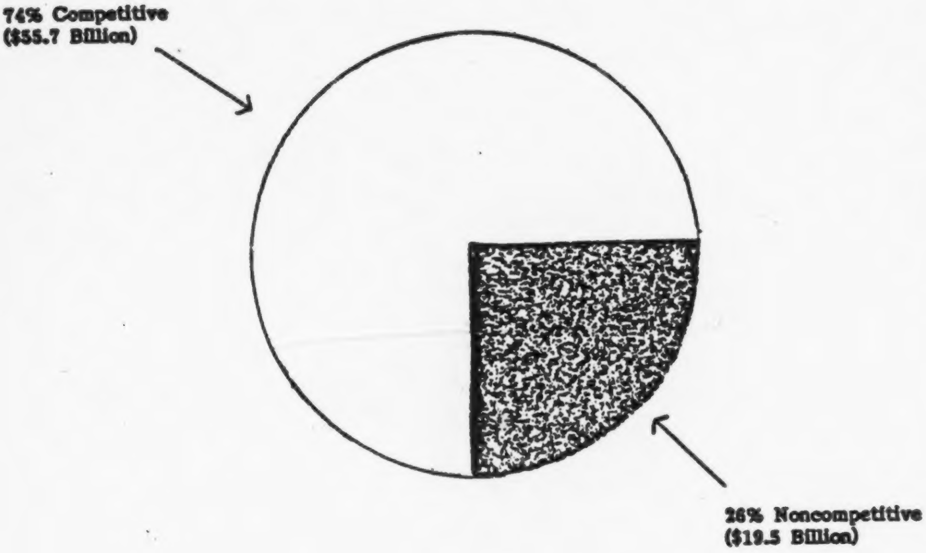
The BOPCR program should clearly be expanded. Both S. 2489 and S. 2434 call for placing a BOPCR in each "major procurement center." The bills both define a major procurement center as one that spent at least $150 million on spare parts in the previous Fiscal Year. We are advised that approximately 20 procurement centers would qualify for BOPCRs under this size definition.

In short, Mr. Chairman, we wholeheartedly support the intent and major provisions of both S. 2489 and S. 2434, with such caveats and suggestions discussed above.

This concludes my formal statement, Mr. Chairman. I would be happy to answer any questions that you or a member of the Committee might have.

Small Business Vs. Large Business Contracts by Contracting Method*

SMALL BUSINESS CONTRACTS

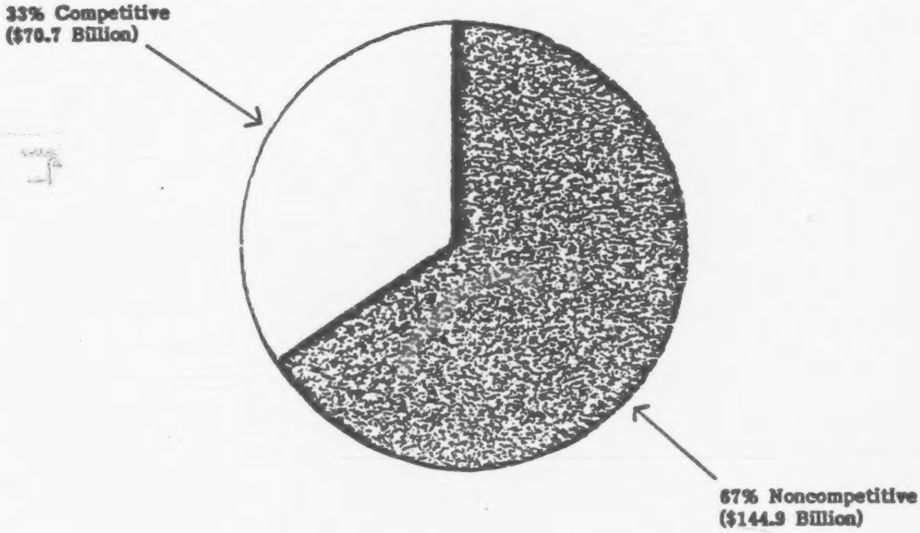


Total Small Business Contract Dollars:
$75.2 Billion

*Data Compiled from Actions Over $10,000 in Current Dollars During FY 1979-1982 Period. Figures Include Contract Amounts Plus Modification Dollars.

Small Business Vs. Large Business Contracts by Contracting Method*

LARGE BUSINESS CONTRACTS



Total Large Business Contract Dollars:
$215.6 Billion

*Data Compiled from Actions Over $10,000 in Current Dollars During FY 1979-1982 Period. Figures Include Contract Amounts Plus Modification Dollars.

Senator NICKLES. Thank you very much, Mr. Swain.

Senator Dixon, do you have any questions?

Senator DIXON. Just very quickly.

Mr. Swain, you have heard the line of questioning I was employing with Mr. Gordon. Of course, in your capacity as the advocate for the Small Business Administration, I am sure that you are fully informed on the question of technical data management to foster future competition, section 5 of this act, and the validating proprietary data restrictions represented in section 6.

Now, could I just quickly ask you to suggest to me what differences there are between appropriate and proper administrative practices with respect to this question and what we suggest in this legislation, other than the monetary damages part?

Mr. SWAIN. I would like to give a full answer to that question in writing, but let me say this: As I understood the colloquy between you and Mr. Gordon, he was suggesting that the way he read the statute was that S. 2489's provisions regarding proprietary data rights would preclude the ability of a contractor to at some later point exercise a proprietary data claim. We don't read the bill quite as restrictively.

There are obviously circumstances in which somebody may have to go back and exercise the proprietary data claim, and the buying agency can at that point argue about it.

I think the important part of this legislation is that it forces the upfront consideration of those factors. Now everything or nothing or some mix of the data in the individual contracts may be proprietary, but——

Senator DIXON. May I interrupt you at that point?

That is exactly what we are trying to do, is have an upfront, full discussion between the procurement officer and the business involved about the proprietary technical data interests. You understand that. We are not attempting here to either, one, prevent them from asserting their right later that they mistakenly did not assert in the first instance or, two, to give up their own proprietary rights. We are suggesting there might be times when the Government would want to buy them, but we are not saying that they give them up. You understand that?

I would like, if you would be kind enough, for you to also give me your analysis of sections 5 and 6 to insure that all we are doing is simply saying we want this upfront discussion and a full understanding and development of the technical data and proprietary rights; that we are not attempting to force businesses from selling those rights against their wishes. They would have that opportunity to sell if they want to, but they would not be forced to do so. Do you understand that?

Mr. SWAIN. Yes, sir; and I would be happy to give you a careful analysis of that, if we could examine it in writing.

Obviously, from the standpoint of a business that is coming in, they want to have the option of either saying this is proprietary or this is something that can be licensed or make any other agreement.

Senator DIXON. That is right.

Mr. SWAIN. However, the problem, as I understand it, is that when the contract is initially agreed upon and when the planning starts, many times, for some reason, this question of how proprietary data will be treated later is either not answered at all or perhaps not adequately answered.

Senator DIXON. Well, that is right. It is not raised until later. Then it becomes a problem on later procurement policies. Is that not true?

Mr. SWAIN. That is my understanding, Senator.

Senator DIXON. That is what we would like to have, is an absolute revelation in the first instance before procurement of all the rights that are involved.

Now to the extent that we do more than that, in your view, I would like to hear about it.

Mr. SWAIN. Yes, sir; we will analyze that.

Senator DIXON. If you can give me an analysis of those two sections, I would appreciate it.[1]

I have one more quick question. What did you think of their testimony that this bill is going to involve advertising hundreds of thousands of more minor contract opportunities? What did you think of that part?

Mr. SWAIN. Well, there are ways around specifically advertising hundreds and thousands of minor contract opportunities. I would imagine that a lot of those small contract amounts are resupply or duplicative procurements that, once synopsized, could quickly be referenced again and again without rewriting three paragraphs for every one of the extra hundred thousand.

We will try to take a look at that question and get back with a more precise answer, though.

Senator DIXON. I would appreciate that.

Senator NICKLES. Thank you very much, Mr. Swain.

Mr. SWAIN. Thank you, Mr. Chairman.

[Subsequent information was received and follows:]

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[1] Information not available at time of going to press.

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United States Senate
COMMITTEE ON SMALL BUSINESS
WASHINGTON, D.C. 20510

April 17, 1984

Honorable Frank Swain
Chief Counsel
Office of Advocacy
Small Business Administration
1441 L Street, N.W.
Washington, D. C. 20416

Dear Mr. Swain:

I would like to extend to you my thanks for testifying at the Senate Small Business Committee's April 12, 1984 hearing on S. 2489, the "Small Business Competition Enhancement Act of 1984", and S. 2434, a bill to amend section 15 of the Small Business Act by requiring the assignment of breakout procurement center representatives at major procurement centers. Your written statement and your oral testimony will be very helpful to the Committee during our further consideration of these two bills.

Due to the time constraints of the hearing, several important points raised by your written statement and oral testimony were not fully explored. In order to make the hearing record complete, the Committee would greatly appreciate it if you would provide written responses to the attached questions, which will be included in the printed hearing record.

Presently, I intend to include these bills on the agenda for a Committee mark-up session scheduled for May 8th. Therefore, it is essential that your written responses be received by the Committee no later than April 27, 1984.

Your responses should be directed to the Committee on Small Business, United States Senate, Room 428A Russell Senate Office Building, Washington, D.C. 20510, to the attention of William B. Montalto, the Committee's Procurement Policy Counsel. Should you have any questions concerning this request, and any requests made during the course of the hearing, please telephone Bill at 224-5175, or Alan L. Chvotkin, Minority Chief Counsel, at 224-8497.

Again, thank you for your participation at this important Committee hearing, and for promptly furnishing the responses to our questions for the record.

With every good wish, I am

Sincerely,

LOWELL WEICKER, Jr.
Chairman

Enclosures (Omitted.)

U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

OFFICE OF CHIEF COUNSEL FOR ADVOCACY

MAY 11 1984

Honorable Lowell B. Weicker
Chairman
Senate Small Business Committee
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

Thank you for the opportunity to testify before your Committee on April 12 concerning S. 2489, the "Small Business Competition Enhancement Act of 1984," and S. 2434, a bill to amend Section 15 of the Small Business Act by requiring the assignment of Breakout Procurement Center Representatives. The following are answers to two questions propounded by the Committee during my testimony.

Question: In your statement, you say that S. 2489 takes a "process" approach to enhancing competition in contrast to several other pending legislative proposals. Would you please elaborate on this statement?

Answer: S. 2489 takes a "process" approach in that it recognizes that the "spare parts problem" is actually a combination of many interrelated problems.

More specifically, instead of prescribing incremental solutions to spare parts procurement problems, for example, by requiring more detailed price certifications for spare parts purchases, S. 2489 seeks to foster the competitive acquisition of spares and other requirements during the entire life of a major weapon system. Thus, Section 3 of the bill requires that prospective contractors submit proposals to enhance competitive procurement of major system components during the design/development phase of a major system. And during the initial and subsequent production phases, Section 5 of the bill mandates a detailed consideration of the procedures for delivery and maintenance of spare parts technical data.

The "total system" approach of S. 2489 requires that adequate consideration be given to competitive procurement of "downstream" or future requirements during the process of planning for, and awarding, design and initial production contracts for major systems.

Question: The written statement of the Department of Defense's representative at today's hearing enunciated the Department's clear preference for H.R. 5064, as reported out by the House Armed Services Committee. The identical language is now pending before the Senate Armed Services Committee in the form of S. 2572. While addressing many of the same issues as S. 2489, S. 2572 takes a broader "policy statement" approach and seems to ignore some of the identified obstacles to competition, such as prequalification requirements. Would you comment on the approach of S. 2572 in contrast to S. 2489, especially with respect to the manner in which obstacles to competition is addressed?

Answer: There are a number of reasons why we prefer S. 2489 to S. 2572/H.R. 5064.

Perhaps the most important reason is that S. 2572/H.R. 5064 seems to place undue emphasis on recovering excessive payments relating to past individual spare parts purchases without including specific procedures to eliminate excessive pricing on a systematic basis. While the issue of pricing of individual spare parts is certainly important, ultimately the key to solving spare parts pricing problems is to develop a procurement process that stresses competitive acquisition of spares during the entire life of a major system. Such a "macro management" approach characterizes S. 2489, but not S. 2572/H.R. 5064.

A second reason is that S. 2572/H.R. 5064 makes no provision for increasing the number of Breakout Procurement Center Representatives (BPCRs). Instead, it gives the competition advocates a statutory basis. We believe that the record of accomplishment to date of the BPCRs in saving the Government literally millions of dollars in the procurement of spares is compelling evidence of the need to place BPCRs at all major procurement centers. Section 7 of S. 2489 would do just that, and we support it.

A third reason for preferring S. 2489, over S. 2572/H.R. 5064 is that the latter contains no provisions relating to prequalification of sources. As you know, agency techniques for prequalification of sources include use of Qualified Bidders Lists (QBLs) and Qualified Products Lists (QPLs). S. 2489 does not eliminate QBLs and QPLs. Rather, Section 4 of the bill gives them a statutory basis, and then imposes a number of restrictions on their use. While we might prefer an even more restrictive approach on use of QBLs and QPLs than that contained in S. 2489, we certainly believe that any spare parts procurement reform measure must address the prequalification issue in some way.

We appreciate the opportunity to make these additional comments on S. 2489 and related bills.

Yours very truly,

Frank S Swain

Frank S. Swain
Chief Counsel for Advocacy

Senator NICKLES. Our next panelists are Mr. Jeffrey Joseph, vice president of domestic policy with the U.S. Chamber of Commerce; Wilsie Adams, National Security Industrial Association from Washington, DC; and Mr. A.G.W. Biddle, president of Computer and Communications Industry Association from Arlington.

Mr. Joseph.

STATEMENT OF JEFFREY H. JOSEPH, VICE PRESIDENT, DOMESTIC POLICY, U.S. CHAMBER OF COMMERCE, ACCOMPANIED BY ELLEN B. BROWN, STAFF EXECUTIVE, COUNCIL ON PROCUREMENT POLICY, AND JEANNE L. MORIN, STAFF EXECUTIVE, LEGISLATIVE POLICY, COMMITTEE OF THE COUNCIL OF SMALL BUSINESS

Mr. JOSEPH. Thank you, Senator.

I am Jeff Joseph, the chamber's vice president for domestic policy. I am accompanied by Ellen Brown, who is the staff executive for our Council on Procurement Policy, as well as Jeanne Morin, who staffs the Legislative Policy Committee of our Council of Small Business.

The chamber supports, with some modifications, S. 2489. We commend Chairman Weicker, Senator Dixon, and other members of the committee for their extensive efforts to find a workable solution to the legitimate concerns of the small business community without unnecessarily disrupting the extremely complex procurement process.

A couple of words about the chamber which I think are relevant to our being here: We are the largest federation of business and professional organizations in the world. We have over 200,000 members, 200,000 roughly companies, 90 percent of whom employ less than 100, but all the big ones, 3,000 State, local, and regional chambers of commerce and 1,400 trade and professional associations.

Because we represent a broad range of business interests, we need to work long and hard to listen to and to accommodate various membership concerns. Needless to say, the issue of spare parts procurement has a potential to divide our membership to the point of deadlock. Yet, we are here today to lend the chamber's support, general support, to this legislation. For this reason, I would like to take a moment to outline the history of our decision to endorse this bill.

Our Council on Procurement Policy, which is one of over 20 groups which regularly propose policy recommendations to our board, first took up the issue of spare parts procurement reform and concluded that no legislative solution should be sought. The Procurement Council believed that Secretary of Defense Weinberger's administrative initiatives should be given the opportunity to be implemented, and that in the meantime we should take a wait-and-see approach.

It made this recommendation to the Council of Small Business, which is our unique policy vehicle which allows our small business membership to participate in any and all chamber issues. The Small Business Council decided that small business barriers to Federal procurement were serious enough to warrant legislative action. However, it lacked the procurement expertise to analyze existing legislative proposals accurately. Therefore, it recommended that a working group be established consisting of members of both of these councils and that they should work together to develop a legislative approach that might be acceptable to both groups and to the chamber membership as a whole.

The working group met over a period of several months to examine various approaches to spare parts procurement reform. Recently, it considered S. 2489 and determined that, while some modifications are still needed in a technical sense, this legislation takes the kind of approach that the chamber should support. That recommendation was affirmed through our appropriate policy channels, and I am here today presenting our views.

We feel that we, as an organization, have been an effective mediator in assuring that the best interests of all of our members are served with regard to Federal procurement of replacement parts for major systems. Our position accurately reflects the needs and concerns of smaller chamber members without compromising the interests of larger members.

Of course, we would not be here today without the tremendous efforts of Senator Dixon and his staff, who initially framed the small business community's concerns and problems in his bill, S. 1730, and those of Chairman Weicker and his staff, who, with Senator Dixon, invested many hours in assuring that the proposed solutions to those problems would be realistic and effective.

We do have several technical suggestions to improve S. 2489 which we detailed in our formal written statement, and I would ask that they be included in the hearing record.

Mr. Chairman, we as a group would be happy to answer any questions you may have. Ellen and Jeanne are the technical experts, and they basically babysat this whole process as it moved through our organization.

[The prepared statement of Mr. Joseph follows:]

STATEMENT
on the
SMALL BUSINESS COMPETITION ENHANCEMENT ACT of 1984 (S. 2489)
before the
SENATE COMMITTEE ON SMALL BUSINESS
for the
CHAMBER OF COMMERCE OF THE U.S.
by
Jeffrey H. Joseph
April 12, 1984

I am Jeffrey H. Joseph, Vice President, Domestic Policy, for the United States Chamber of Commerce. I am accompanied by Ellen B. Brown, staff executive for the Chamber's Council on Procurement Policy, and Jeanne L. Morin, staff executive for the Legislative Policy Committee of the Chamber's Council of Small Business.

The Chamber supports, with some modifications, S. 2489. We commend Chairman Weicker, Senator Dixon, and other members of the Committee for their extensive efforts to find a workable solution to the legitimate concerns of the small business community without unnecessarily disrupting the extremely complex procurement process.

The U.S. Chamber is the largest federation of business and professional organizations in the world, and is the principal spokesman for the American business community. It represents about 200,000 members -- business firms, state and local chambers of commerce, and trade and professional associations.

More than 85 percent of the Chamber's members are small firms with fewer than 100 employees. Yet, virtually all of the nation's largest companies are also active members. We are particularly cognizant of the problems of smaller businesses, as well as issues facing the business community at large.

Besides representing a cross section of the American business community in terms of number of employees, the Chamber represents a wide management spectrum by type of business and location. Each major classification of American business -- manufacturing, retailing, services, construction, wholesaling, and finance -- numbers more than 14,000 members. Yet, no one group constitutes as much as 26 percent of the total membership.

As this Committee is well aware, spare parts procurement in the Department of Defense has received much public attention in the past few months. It is a subject that has polarized the business community. Prime contractors and subcontractors, service industries and manufacturers, large companies and smaller firms all have vested interests in federal procurement policies. And, as might be expected, sometimes those interests conflict.

Because the Chamber represents a broad range of business interests, we occasionally find it difficult or impossible to take a unified stand on a given issue. Needless to say, the issue of spare parts procurement had the potential to divide our membership to the point of deadlock. Yet, we are here today to lend the Chamber's support to your legislation. For this reason, I would like to take a moment to outline the history of our decision to endorse S. 2489.

The Chamber's Council on Procurement Policy first took up the issue of spare parts procurement reform, and concluded that no legislative solution should be sought. The Procurement Council believed that Secretary of Defense Weinberger's administrative initiatives should be given the opportunity to be implemented, and that, in the meantime, we should take a wait-and-see approach. It made this recommendation to the Chamber's Council of Small Business.

The Small Business Council decided that small business barriers to federal procurement were serious enough to warrant legislative action. However, it lacked the procurement expertise to analyze existing legislative proposals adequately. Therefore, it recommended that a working group be established, consisting of members of both Councils, to develop a legislative approach that might be acceptable to both groups, as well as the broad Chamber membership.

The working group met over a period of several months to examine various approaches to spare parts procurement reform. Recently, it considered S. 2489 and determined that, while some modifications are needed, this legislation takes an approach that the Chamber should support. The recommendation was affirmed through appropriate policy channels, and I am here today presenting our views.

The Chamber has been an effective mediator in assuring that the best interests of all our members are served with regard to federal procurement of replacement parts for major systems. Our position accurately reflects the needs and concerns of smaller Chamber members without compromising the interests of larger members.

Of course, we would not be here today without the tremendous efforts of Senator Dixon and his staff, who initially framed the small business community's concerns and problems in S. 1730, and those of Chairman Weicker and his staff, who, with Senator Dixon, invested many hours in assuring that the proposed solutions to those problems would be realistic and effective.

We have several technical suggestions to improve S. 2489:

Small Business Competition Enhancement Act of 1984

Sec. 3(m)

S. 2489 uses the term "requirements" when describing that which will be competitively purchased. Since this term has many meanings, more descriptive words should be used to clarify what is meant, for example, "supplies & services."

Sec. 3(m)(1)

Directing a federal agency to ensure that evaluation considerations in a solicitation for a development contract are accorded proper weight "to the maximum extent practicable" could be unreliable. This phrase needs to be explained or defined, if not in the language of the bill, then in the legislative history. Contracting officers must understand what is expected of them to respond appropriately to each situation.

Sec. 3(m)(2)(C)

This section requires that, in a solicitation for a production contract, substantial weight be given, as evaluation considerations, to proposals expanding participation of small and small disadvantaged businesses. As written, this section appears to expand current requirements for prime contractors under P.L. 95-507. If this is not the intent of this section, it must be rewritten.

Sec. 3-Final Paragraph

This paragraph encourages the use of the evaluation considerations described by previous paragraphs as negotiation objectives in making noncompetitive awards. This should be more clearly stated.

Sec. 4(a)(n)(1)(C)

This section requires a federal agency, before establishing a prequalification requirement, to provide the opportunity to a prospective contractor to show it can qualify and goes into lengthy detail on how an agency must provide that opportunity. This section simply should make clear that the opportunity must be provided and if the agency cannot provide the personnel and facilities, the agency must find other fair and impartial evaluation and testing services.

Sec. 4(a)(n)(3)

This section provides additional assistance to small businesses seeking qualification where there is a limited number of existing qualified companies. The bill uses a floor of "fewer than five." Although the intent is to increase competition, government and taxpayers should not have to bear the expense of qualifying additional companies unless there are only two qualified companies available. In addition, the language of subparagraph (B) should be narrowed to limit the small business to one that would be reasonably expected to compete. This would serve to prevent a company from using government funds to qualify its product when it never intends to sell to the government but sees some benefit to government qualification.

Sec. 4(b)

This section specifies information to be included in Commerce Business Daily (CBD) notices in an attempt to help a small business make an informed judgment as to whether to bid. If this information is currently required by regulation, we have no quarrel with codifying this language. However, if new requirements lead to a CBD which is unwieldy and inconvenient to use, the information will be counterproductive. Some discretion should be given the contracting officer, who may be in the best position to determmine what is "similar information to assist a prospective contractor to make an informed business judgment as to whether a solicitation should be requested."

Sec. 4(b)(1)(E)

This section requires agencies to post full texts or abstracts of contracting opportunities below the $10,000 threshold for publication in the CBD. It should be amended to permit specifically, in addition to posting, the maintenance of a public central depository for viewing these documents. Further, a floor should be established above which the requirement would apply.

Sec. 5(a)(c)(5)

For clarity, this provision should be amended by subsituting the phrase "in advance of data delivery" for "in advance of delivery." Without this change, the provision could be misinterpreted.

Sec. 5(a)(o)(9)

The exception in this provision must be broadened. Certain types of contractual arrangements also should be protected.

Sec. 5(a)(o)(11)&(12)

Although these provisions may not be the appropriate mechanism to address the issue of configuration management, they draw attention to its need. Configuration management may be best achieved through separate contractual arrangements.

Sec. 5(b)(2)

The government's ability to manage and account .. : technical data in its possession is essential to carrying out the goals of this legislation. Yet, this section allows agencies until 1989 or beyond to implement their technical data mangement plans. By requiring the necessary management systems to be in place as soon as possible, S. 2489 could make clear the priority nature of installing such systems. Therefore, sec. 5(b)(2) should be amended to require that implementation be completed no later than three years after the management plan has been developed.

Sec. 6(p)(1)

This provision requires, as determined appropriate by the contracting officer, a review of the validity of proprietary data claims. The provision should be amended to limit the period for review so that contractors will not be asked to furnish information not otherwise required by law to be retained.

Sec. 6(p)(2)

This paragraph requires contractor certification as to current validity of proprietary data claims. By requiring certification within a time period specified in the bill, the language is too inflexible and does not allow the appropriate discretion by the contracting officer.

Sec. 6(p)(6)

This provision should be amended to provide reciprocal rights to contractors for costs incurred in successfully proving the current validity of asserted restrictions to data rights.

Sec. 7

To avoid further confusion in dealing with the procurement system, "Breakout Procurement Center Representatives" should be redesignated as "Small Business Competition Advocates." This would distinguish them from procurement center representatives and would liken them to the Services' competition advocates, to whom they are closer in responsibilities.

Sec. 8(j)

The phrase "and section 5(b) of the Small Business Competition Enhancement Act of 1984" is redundant and should be dropped.

We hope these comments will be of assistance to the Committee as it marks up S. 2489. We would be happy to provide further information at your request.

Senator NICKLES. Thank you very much. I appreciate your submitting those. As I said earlier, all the statements by our panelists will be submitted into the record. I appreciate your abiding by the 5-minute rule that I have requested.

Mr. Adams.

STATEMENT OF WILSIE H. ADAMS, JR., MEMBER, PROCUREMENT PLANNING COMMITTEE, NATIONAL SECURITY INDUSTRIAL ASSOCIATION

Mr. ADAMS. I am Wilsie Adams, and I am here as a member of the procurement committee of the National Security Industrial Association.

I would like my written statement entered for the record, and I will attempt to summarize and, in fact, take a slightly different approach in my presentation in order to accommodate the questions that Mr. Dixon has been asking, if I can.

Senator NICKLES. Thank you.

Mr. ADAMS. The National Security Industrial Association is a national organization of over 350 companies, all sizes, all segments of industry, all locations in the country. Essentially, it is intended to be an organization that provides the communication medium between the agencies and the industry for the resolution of mutual problems.

We in NSIA do not have any major problems with most of the major thrusts of this bill. We certainly believe there should be QPL's, and safety and the rest of these things must be considered. We also agree that it must be easy to find out what it is you have to do to qualify.

We have some reservations as to whether or not providing free Government services in indeterminant quantities at this point is cost-effective. That is something that is really not in our bailiwick, if you will. Somebody else ought to worry about that, but we would raise the concern.

We would say the same thing about the breakout representatives. We recognize that the bill has drawn a very fine line between providing authority to empower people to do certain things who don't have the responsibility for the end result. I think you have drawn a very fine line there, and we appreciate the concerns of the Defense Department with providing their employees to support those who are in other agencies, and so forth. However, we do not have too much trouble with the idea of breakout itself. We like the idea of breakout, and we are participating and cooperating in trying to find better solutions to the spare parts problems.

The major concerns that we have had with the bill are those provisions dealing with data rights. Rather than repeating the written testimony, what I would like to do is walk through, if you will, section 5 of the bill section by section——

Senator DIXON. I would love it.

Mr. ADAMS [continuing]. And try to point out what we consider to be the differences between what is in the bill and what is presently the practice, and why we really believe that the present practice should not be changed.

First of all, as Mr. Gordon indicated, we must make a distinction between the question of rights to data and the use of data with the management of data. We fully support the idea that there had better be some kind of a plan to come up with a way to manage what you have, because the Defense Department is not doing a very good job of that. We are trying to work with them to do that.

We would think that the management plan ought to address the future, because with the piles and piles of stuff they have, they are never going to get what they already have under control. That is a hopeless cause, from our standpoint. However, there ought to be a plan and they ought to get with it, and we support that part of the bill.

Let's take a look at section 5 of the bill, page 11, item No. 1, specify what's to be delivered. That is already done, obviously. Mr. Gordon referred to the contract data requirements list, the so-called CDRL's. No one has any objection to knowing what it is they are supposed to deliver in the contract, and it is, in fact, done.

No. 2, establishing criteria for determining the acceptability of the technical data to be delivered, we think that is already done. The milstandards that are always referenced in the CDRL's tell you exactly what level you have to go into, and so forth. Some people may have differences of opinion with respect to the adequacy of the milstandards. It is there and it is done.

Establishing separate payment lines and authorizing withholding of payments—withholding of payments is presently authorized in almost every contract that requires the delivery of data. The withholding of payments is already there.

Separately pricing by line item can be a problem. It is not done all the time. It does infringe on the flexibility to negotiate bottom line prices for the entire contract, and it does present problems if you get into the question of cost and pricing data when you are trying to price something that the contractor has the rights to, and that he is selling data rights per se. Cost and pricing data is not appropriate, and a separate line item may not be a way to go with that.

Paragraph No. 4, specifying the respective rights of the parties, that is normally done in the rights in technical data provision of the contract. It is very long, it is very complex, very detailed provisions, but the specification of the rights is included in the contract.

There is not normally included a definition of the phrase "developed at private expense." That phrase is used in all the contracts. It has been in use since about 1964. Each segment of that phrase requires separate definition. The term "developed," at what point is something developed or not? What do you mean by "private expense"?

We believe that the legislative history of the DAR provisions, if you will, the administrative record associated with the creation of that phrase in 1964 is normally adequate to resolve the problem. There has been some litigation over the meanings of those terms, and we would generally say that the phrase at this point in time, after 20 years of use, does not need to be defined.

Identifying in advance of delivery technical data which is to be delivered with restrictions on the Government's rights, this is the so-called predetermination of rights provision. We do not—I do not, after reading this bill, share Mr. Gordon's concern that failure to identify upfront precludes me from later making my claim.

Senator DIXON. Neither do I, may I say.

Mr. ADAMS. OK. I appreciate Mr. Montalto's statement.

Senator DIXON. We could further clarify it, Mr. Adams. I have no problem with that.

Mr. ADAMS. The only problem we have with the predetermination or preidentification, if you will—"determination" is really not the right phrase. We are really talking about prior identification of rights of data to which we will claim rights. The only problem we have with that is the question of when is that identification to take place.

Now the way this is phrased, "prior to the delivery in a production contract," we really do not have a problem with that.

Senator DIXON. In advance of delivery.

Mr. ADAMS. In advance of delivery on a production contract. What we have had problems with are concepts of identifying in advance in a design or development contract before you know the design solutions, and so forth. It is really not practical at that point. We addressed that question in our testimony on H.R. 5064. However, here, identification prior to delivery in the performance, we don't have a problem with that.

Senator DIXON. My counsel points out that this refers to production contracts.

Mr. **Adams**. That is right. This is production contracts, identification prior to the delivery of the data. That is not a problem. Paragraph 6 does cause us some problems, and it is different from what is being done at the present time.

Essentially, paragraph 6 we believe is a micromanagement by the Congress of the management decisions of the individual companies. The company knows that if it marks its data proprietary it is subject to challenge. How it plans in advance to meet that challenge should be up to the management of the company. There should not be any mandated procedure from the Congress which says, "Before you make your claim, put together your evidence package." What you are talking about with respect to any drawing is a $5,000 to $10,000 engineering and financial effort, and that is a minimum cost, I would think, to go back and review all the time cards, gather up the timecards for when the money was spent to develop this particular item, go back and review all the laboratory notebooks of all the engineers in the company to determine when it was they worked on this and what was the stage of development at the time, and so forth.

What is presently required in the DAR provision is a requirement that the company have an established procedure for determining when to mark and that this procedure be reviewed and approved by the Government in advance. All I am saying to you is the present DAR protects the Government against any wholesale abuses of the system, and every company is on notice that it has an obligation, if it is challenged, to provide its proof in 60 days.

Senator **Dixon**. If I may interrupt you——

Mr. **Adams**. So don't tell them how to do it; that's all.

Senator **Dixon**. In the interest of time, let me say that I am noting that section 6 is the first complete paragraph you have problems with. Counsel suggests that we have some problems with it, too, and we will pursue with you to a more finite extent how to resolve the problem of 6. I thank you for that.

Mr. **Adams**. I appreciate that.

Paragraph 7 is another provision with which we have a great deal of problems. This is not a currently required provision in any contract. It is one that is currently under consideration, I believe, in the many studies that are going on about this subject. For the committee's information, the Defense Department is at this very time sponsoring a hearing at Andrews Air Force Base that will be addressing some of these same questions.

If a company, in fact, develops proprietary data at its own expense, in order for that to be a trade secret, disclosure has to be absolutely controlled. Disclosure to the Government under an agreement, namely the data rights provision of the contract with the markings authorized, is okay, but you cannot agree in advance that the Government is going to allow some third party, unidentified, to look at that data for any purpose whatsoever.

The idea that somebody can take a look at a drawing and determine whether or not it is proprietary is absurd. You do not even have to be novel or inventive to have trade secrets. All it has to do is reflect the way you decided to do things, that you came up with it at your own expense, and you cannot tell whether or not it was developed at private expense by looking at a piece of paper. You can only tell by looking at cost records, financial records, engineering notebooks.

What you do when you say, "I want to challenge this little piece of paper," you quadruple or many, many times multiply the amount of trade secret information that must be disclosed. When we have no advance knowledge as to who the guy is, no agreement between the third party and the contractor, no adequate remedies in court, no jurisdiction over that person in court, no agreements as to what the damages will be if he discloses outside, and so forth, we cannot agree in advance to that kind of a provision. We have a lot of problems with No. 7.

Senator DIXON. If I may, Mr. Chairman—could you present to us what you consider to be an alternative solution to the method suggested in that section? In other words, you don't like an independent contractor or a third party making the determination?

Mr. ADAMS. Our recommendation is simply deletion because we do not believe that there is the problem there to be satisfied.

Senator DIXON. Do you mind if our counsel pursues that with you at a later date?

Mr. ADAMS. Not at all.

Senator DIXON. What about 8, on the specifying liquidated damages, which Mr.——

Mr. ADAMS. We agree with Mr. Gordon. We have asked that be deleted. We agree completely with Mr. Gordon. No courts will enforce penalty provisions when they are called liquidated damages. This is clearly a penalty provision that has no relationship to any damages actually suffered.

Paragraphs 9 and 10 I would like to talk about simultaneously. We do not have anything like that right now. We consider these two provisions collectively to be going in the exact opposite direction from this committee intends.

Contractors do license others to use their data. That increases the number of suppliers available. When they license things which have been developed at their own expense, they expect to receive a license fee. To prohibit someone from collecting license fees from people that it has licensed tells the contractor not to license anyone; keep the work in-house; don't find new suppliers; don't find new sources; let's keep the competitive edge we've got, and let's not spread the work around because if I do, I lose my right to recover my investment in the proprietary information.

These two provisions together are bad.

I think most contractors would agree that they should not impose unreasonable restrictions on subcontractors dealing directly with the Government. They do not believe that it is unreasonable when they provide the data, they provide the tooling, they provide the technical expertise to set the guy up in business, that they should be able to include reasonable restrictions on the sale of what was their product by that other party.

We believe that the antitrust laws adequately protect against unreasonable restrictions on license agreements of the kind that you are trying to deal with here, and we would suggest that paragraphs 9 and 10 come out.

Paragraphs 11 and 12, again, Mr. Gordon testified that the Government presently receives the source information. They just do not know how to manage it once they have it. We would agree with that.

We do not have any problem with a requirement that we provide that kind of information. What we object to in paragraphs 11 and 12 are the aspects of telling us exactly how to do it and where to report it.

Put it on a list. Make a list. Mark it on each piece of paper. Don't tell us how. Tell us what you want done. Don't tell the agency how. Let the agency decide how they want to receive the information. Require the provision of the information as to the sources, but don't go into how to do it in the legislation. That is the kind of micromanagement that should be avoided.

Senator DIXON. I wonder if counsel could ask a question.

Mr. MONTALTO. Mr. Adams, your testimony is laced with references to the AFMAG (the Air Force Management Analysis Group) report. The majority of these contact provisions were urged strongly by the AFMAG authors as being essential contact provisions—for example, separate payment lines. Did you not read the recommendations of the AFMAG report the same way I did?

Mr. ADAMS. We read the AFMAG report like everyone else does, for its approach to an overall problem. The AFMAG report says that the problem it is addressing is about this big [indicating very small]. It is the small quantity, small purchases of unplanned items without competition where Public Law 87-653 does not apply, and so forth.

The AFMAG report says that most of the procurements are handled pretty well in the spare parts area. What they are dealing with in the spare parts problem—the "spare parts problem," the horror stories that make the papers, the $400 clawhammers, and so forth—is not what this bill is about.

They indicate there is not a single one of the horror stories that has ever been tied to the question of the contractor's proprietary data. What the AFMAG report says is what Mr. Gordon said this morning. AFMAG says 8 percent of our procurements are restricted because of contractors' claims of rights to data. Mr. Gordon says DOD-wide it is about 3 percent. We say that is not a problem.

If you want companies to go out and spend their own money, develop better products for the Defense Department, for the Transportation Department, for any department, you want to see a much higher percentage than 3 percent of the items that have any private investment in them. That is a disgraceful percentage. It should be much, much higher.

What we are saying is that technical data rights, as opposed to technical data management, are simply not the problem. What you are proposing here are solutions to a nonexistent problem. "If it ain't broke, don't fix it." That is what we are trying to tell you.

Most of the things you are talking about either are already in the regulations, already being done, or are the subject of great controversy and the subject of existing, ongoing studies that have not been completed. Legislation on data rights should not be made at this time.

Senator NICKLES. Thank you, Mr. Adams.

Mr. **Adams**. I realize I am well over my time, and I will let the other panelist proceed, and take any other questions later.

[The prepared statement of Mr. Adams follows:]

STATEMENT
OF
NATIONAL SECURITY INDUSTRIAL ASSOCIATION
BY WILSIE H. ADAMS, JR.
BEFORE THE
COMMITTEE ON SMALL BUSINESS
UNITED STATES SENATE
APRIL 12, 1984

Mr. Chairman, and members of the Small Business Committee, I am Wilsie H. Adams, Jr., a member of the Procurement Planning Committee of the National Security Industrial Association (NSIA) and a partner in the law firm of McKenna, Conner & Cuneo.

On behalf of the NSIA it is my privilege to present the views of the association on S. 2489 and S. 2434.

The National Security Industrial Association is a national organization of more than 350 U.S. manufacturing, research and service companies of all sizes, from all parts of the country, and from all segments of industry interested in and related to our national security. A copy of our annual report, which lists our member companies has been previously furnished to the committee.

Established 40 years ago, NSIA serves essentially as a two-way communication medium between government -- primarily the Department of Defense -- and the industry which supports it. It is our purpose to develop and foster mutual understanding between industrial concerns and any one or more of such government establishments to the end that the problems of each may be considered and resolved through cooperation between such establishments and industry and to assist any one or more of such government establishments with technical information relating to industrial experience and practices.

We in the NSIA appreciate the interest which has developed in the subject of competition. We agree that improvements in this function can be made by both industry and the Government, and indeed, measures have been taken and others are underway which will improve competition.

We appreciate that much of the interest in increasing competition has been generated by the recent publicity concerning spare parts acquisition. The comprehensive Air Force Management Analysis Group (AFMAG) report of October 1983 entitled "Spare Parts Acquisition" stated on page 1-7: "Industry has become as concerned as the Air Force over the cost of spare parts and has made spare parts acquisition practices a major agenda item at top management levels."

Attached to this statement I have included a copy of the comments of the Council of Defense And Space Industry Associations (CODSIA) which were furnished to the Deputy Secretary of Defense on October 21, 1983 and which reflect the views of NSIA and its member companies regarding the programs of the Department of Defense to improve the spare parts acquisition process and increase competition.

In view of the extensive attention which has been given to the subject of spare parts, we feel it is important at the outset to place spare parts, and in particular those types of spare parts which have caused most of the controversy, in perspective. The AFMAG report previously referred to identifies, we believe correctly, that the major problem area concerns those spare parts acquisitions in which small quantities of low value items are purchased noncompetitively. (p. 2-37).

We agree with the report that in the vast majority of spare parts acquisitions where reasonable quantities are purchased, where the protections of PL 87-653 apply, or where competition has been obtained, reasonable prices have resulted.

We should keep in mind that the experience observed in the acquisition of small quantity, noncompetitive, low value spare parts is not typical of procurement. We are concerned as we know you are, that the solutions to the problems identified should not impose a disproportionate burden on the acquisition process. We must avoid the temptation to overmanage the problem area at the expense of other more important considerations even though the problems are substantial.

We wish to cooperate with the committee in protecting the taxpayer by fashioning constructive and effective solutions to the problems which have been identified.

We support some of the major areas covered by the bills but must respectfully disagree with others. I will discuss each bill in turn.

S. 2489

With respect to S. 2489, we support the basic thrust of the policy statements in sections 2 and many of the provisions of Section 3. We believe that reasonable efforts to increase competition are appropriate. It is important to identify requirements early and to consolidate requirements into economic production quantities. We support the use of commercial parts where practical. We would suggest that the multiyear procurement technique can be effectively applied to selected spare parts acquisition. Planning to meet future maintenance requirements will assist in increasing competition.

With regard to Section 4, we believe that there is a valid need for prequalification requirements under specific circumstances as determined by government agencies, especially the Department of Defense. We agree that criteria for prequalification standards must be clarified and made easily available to assure that the optimum amount of competition is provided. We have reservations concerning the need for detailed written justification by an agency before a prequalification requirement is established. We also question whether the extensive amount of government assistance called for will provide a cost-effective solution to the problem of encouraging new competitors to broaden the industrial base. There has been continuing criticism of the length of the acquisition process. The administrative measures provided by this section will undoubtedly add to the length of the acquisition process, as well as add to the resultant cost of the process.

Sections 5 and 6 are concerned with technical data. Before commenting on these sections it is important to put the subject of data in context. In any discussion of technical data and the rights to technical data, there must be an appreciation of the role that nondisclosure plays in the very existence of trade secret information. The entire value of a trade secret is embedded in non-disclosure both as a practical and as a legal proposition. Once technical data is disclosed without limitation it loses its identity and value as a trade secret. Before disclosure it is a protectable property interest, an asset. After disclosure it loses all characteristics as property; that is, its identity as a trade secret, which can never be reclaimed. Unlike a patent where a limited monopoly is granted in exchange for disclosure, data to retain its value as a trade secret cannot be disclosed and must be carefully guarded. Companies are extremely cautious of data because they must be. Once it's gone, it's gone forever.

Nevertheless, Mr. Harvey J. Gordon, the Assistant Deputy Under/Secretary of Defense, Research and Engineering (Acquisition Management) on page 4 of his prepared statement before the Investigations Subcommittee of the House Armed Services Committee on March 13, 1984, indicated that less than 3% percent of the 2.2 million items reviewed for breakout are restricted due to contractor claims of proprietary data. In the AFMAG report referred to earlier it is indicated that limitations on the government's right to use technical data have had a limiting effect on competition in only 8% of the spare part reprocurements. (p. 2-16).

These are revealing statistics in many respects. First, they highlight what a small role data rights actually play in the overall spare parts problem. Compare these statistics to those at p. 2-18 of the AFMAG report which indicate that there is a 10% error rate in the processing of data already held by the Air Force central data repository and that 60% of the time, the repository is unable to provide data requested by users and then only after weeks have passed. We would submit that data management rather than rights in data is the larger problem.

We believe that the major thrust of section 5(d) which requires the agencies to develop and implement a plan for the management of data is an important and worthwhile contribution to the solution of the spare parts acquisition problem. We believe the plan should concentrate on data to be acquired in the future. While we have some concern about the cost of such a program and the time limit imposed, again, it is apparent that the management of data has been and still is a major problem in procurement of replenishment spare parts. The committee is correct in drawing attention to this problem area.

If one desires to see private investment in the development of innovative and superior products, one would like to see a much higher percentage than even the 8% previously mentioned. Likewise, if the perception were true that companies routinely improperly mark data with limited use legends, one would expect the 3% or 8% figures to be significantly higher. We would conclude that the acquisition process is not sufficiently encouraging private development of defense hardware and manufacturing processes and that companies do not routinely apply inappropriate limited rights legends to technical data.

However one may choose to interpret the statistics reported by Mr. Gordon and in the AFMAG report, we must oppose the provisions related to rights in data as set forth in S. 2489. They should be deleted. They are neither necessary nor appropriate and can have adverse effects on the industrial base.

Section 3 implies that any company who wishes to do business with the government must be willing to sell or license his trade secrets to the government. If required, the mandatory sale or licensing will tend to drive many companies with valuable commercial trade secrets out of the government marketplace. This is especially true of small businesses whose continued existence may depend on a privately developed or licensed product. We recognize that the goal is the enhancement of competition and that the government is willing to pay for the data, but some companies large and small simply will refuse to sell.

With regard to the proposed subparagraph 6 of Section 15(o), of the Small Business Act, we are opposed to the requirement to prepare in advance the justification for the limited rights restriction. The Defense Acquisition Regulation, DAR 7-104.9(p), already requires that contractors have an established procedure for determining when and whether to mark data with limited rights legends. We believe that this "systems" approach, rather than an item by item approach is adequate to permit the Government to ascertain that there is not wholesale abuse of the restrictive legends. The preparation in advance of an evidence package for each item of proprietary data is an extremely expensive and burdensome requirement which is not necessary. It should be left to the management of each company to decide how they intend to be in a position to defend their rights assertions if challenged at a later time. Some may choose the method required by the bill. Others may choose to rely on a review procedure. This section represents micromanagement of the individual contractor and should not be enacted.

With regard to subparagraph 7 of the proposed section 15(o) of the Small Business Act, we object to the requirement that the contractor agree in advance to the disclosure of his data to a third party. The provision seems to proceed from an incorrect premise that it is possible to tell-merely by looking at technical data -- whether it is properly limited rights data. Nothing could be further from the truth. For example, unlike the requirements for a patent, trade secret data need not be even novel or inventive.

Further, I would remind the committee that there is really no clear definition of what constitutes a "trade secret." Indeed some case decisions indicate that the term "trade secrets" is incapable of definition. In preparing for this testimony I reviewed Milgrim, TRADE SECRETS, Mathew Bender, New York, New York (1983), which has a 155 page Chapter 2 entitled "Definitional Aspects." One attempted definition, itself several pages in length, is that set out in Section 757 Comment (b) of the American Law Institute, Restatement, Torts.

Just a few lines of that definition should suffice to clearly refute the premise of the provision.

> "An exact definition of a trade secret is not possible. Some factors to be considered in determining whether given information is one's trade secret are: (1) the extent to which the information is known outside of his business; (2) the extent to which it is known by employees and others involved in his business; (3) the extent of measures taken by him to guard the secrecy of the information; (4) the value of the information to him and his competitors; (5) the amount of effort or money expended by him in developing the information; (6) the ease or difficulty with which the information could be properly acquired or duplicated by others.

To this confusion we should add the traditional test of "developed at private expense" used in the standard DAR provisions which adds to the definition the factors of the degree of development and the source of the funds used in development.

It should be obvious that a determination as to the propriety of a limited rights legend can rarely, if ever, be made without also reviewing cost records and a vast array of information not required for delivery under any contract. No contractor should be expected to open its doors, books, technical data and other business information to unidentified third parties who may now or in the future compete with the contractor or represent competitors of the contractor in any form of business activity. Even in the absence of any conflict of interest there is a reasonable reluctance to disclose confidential financial information to such a third party. This is an unreasonable requirement with which many companies simply cannot or will not comply.

Furthermore, the role of the third party is not clearly identified. It must be recognized that there already exist at least three forums for adjudicating disputed rights in data: the Boards of Contract Appeals; the U.S. Claims Court; and the U.S. District Courts. We do not understand how this third party fits into the process and how he relates to the contracting officers, the agency or the forums for dispute resolution previously mentioned. All of these forums have the ability to deal with the technical and financial issues involved in the determination of rights to technical data. There is no need for this provision.

We also oppose the provision for liquidated damages set out in subparagraph (8) of proposed section 15(o) of the Small Business Act. This appears to be strictly a penalty provision which does not on its face relate to any particular injury or damage which may or may not result from the possible improper assertion of rights in technical data.

Subparagraphs 9 and 10 of the same section prohibit reasonable license arrangements between commercial business entities and would have the effect of limiting competition rather than enhancing competition. If a business is to be precluded from collecting license fees from those using licensed technologies there will be no purpose in licensing others. At times, a contractor, for purposes of economy, for purposes of implementation of his small business program, due to schedule considerations, due to plant capacity or due to other business considerations, will license others to utilize his trade secrets, and will provide technical assistance to permit the manufacture of parts, assemblies, or components of his products. Such agreements typically include limitations and license fees consistent with the antitrust laws. Subparagraphs 9 and 10 would prohibit many such necessary and desirable arrangements and should be deleted.

Subparagraphs 11 and 12 of the same section require the creation of source information which would assist in the subsequent procurement of components and supplies. We have no objection to providing such information but the bill goes too far in prescribing how the information is to be presented, e.g., "maintain a listing," or "annotate engineering drawings." This level of detail of the management of the information is not appropriate for a statute.

We note with approval the efforts made to provide some flexibility to waive the many burdensome requirements of this section. We would include a lack of cost effectiveness as a justification. We consider the requirement that there be determinations in writing with reasons included in the contract file as another example of statutory management which should be left to the agency.

Most of the requirements of Section 6 of the bill are already in being under existing regulations. We do not consider this Section necessary and recommend it be deleted.

We object again to the use of unidentified contractors to review proprietary data. We further believe that the contracting officer should decide when and if he needs assistance without the assistance being imposed by statute.

The contracting officer's decision is already subject to the Contract Disputes Act. We would prefer a statement in subparagraph 5 that no restrictions on the use of the data will be removed until the final disposition of any appeals. We recommend that subparagraph 6 be deleted, but if it is not, the Government should be required to pay the contractor's expense if the Government's position in challenging the restriction is not substantially justified.

S. 2434 and Section 7 of S. 2489

We have no objection to the concept of "breakout" for the acquisition of replenishment spare parts. We accept the fact that breakout representatives can be effective in enhancing competition. We, however, do have a fundamental objection to providing authority to anyone not having responsiblity for the accomplishment of the agency acquisition function of acquiring needed supplies and services in a timely and cost effective manner. We recognize that there is a fine line between the actions which the breakout representative is empowered to take and his ultimate role as an advisor. We believe that implementation of these provisions will be extremely expensive and may impede accomplishment of agency functions in a timely manner. We are sensitive to the spare parts problems which have received so much attention but we are concerned that the cost of the "solutions" will exceed the cost of the problem.

CONCLUSION

As described above, our major objection to S. 2489 and S. 2434 is our concern with respect to the data rights provisions. We wish the committee to recognize that the question of rights to technical data raises serious and complex issues. We note that these issues are currently the subject of several studies by the Defense Department and others. The industries which we represent are actively involved in an attempt to resolve these issues in a manner which recognizes not only the interests of the government and industry in enhancing competition, strengthening the industrial base and encouraging contractor investment and innovation, but also recognize the legitimate property interests involved. We do not believe that mandatory sale or licensing of valuable private property rights solely to enhance competition is the correct approach. We expect the ongoing studies to be completed within the next few months. We would hope that the results will be useful in the development of uniform policies not only within the Defense Department but government-wide. It would be a serious mistake to overburden the acquisition process with legislation of data rights at this time.

This concludes my prepared remarks. I would be pleased to address your questions at this time.

COUNCIL OF DEFENSE AND SPACE INDUSTRY ASSOCIATIONS (CODSIA)
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(202) 331-8050

21 October 1983

CODSIA case 22-83

The Honorable
Paul Thayer
Deputy Secretary of Defense
The Pentagon, Room 3E944
Washington, DC 20301

Dear Mr. Secretary:

The undersigned member associations of the Council of Defense and Space Industry Associations (CODSIA) fully recognize their joint responsibility with DoD for the current problems in spare parts acquisition. We therefore would like to take this opportunity to present our views on spare parts acquisition and to comment on Secretary Weinberger's comprehensive memoranda of 25 July and 29 August on this subject. In addition, a number of senior industry officials met with you on 16 September 1983 to discuss this issue, and we have considered the comments made at that meeting as well as the letter from Mr. Franz Ohlson to you dated 23 September 1983, with which we are in full agreement.

CODSIA was formed in 1964 by industry associations having common interests in the defense and space fields, and provides a central channel of communication with the Department of Defense, NASA, and other procuring agencies of the Government.

We have reviewed [illegible] entire spectrum of potential improvements to the spare parts acquisition process, and we find that the Secretary of Defense's policy memorandum of 29 August covers the appropriate areas. Attached hereto, therefore, are our comments and recommendations keyed to the specific issues contained in that document.

We would like to emphasize that we are in agreement with the point made in the "Draft" Concept Paper included in Secretary Weinberger's memorandum of 29 August; namely that the spare parts "problem" is not any one problem, but rather it is many problems that vary in type, combination and impact. Also, that there is no one solution. Secretary of the Air Force Orr noted in a recent speech that: "The Air Force spares process is large and complex..." This assessment can also be applied across all elements of the Department of Defense involved in the acquisition and management of spare parts.

The recent Air Force Study, "Corona Require," addresses the issues of years of funds shortages, antiquated computer systems, and lack of skilled and trained personnel, which we agree need priority attention. We also appreciate the difficulty which you face in obtaining those resources. At the same time, be assured that industry will exert maximum effort to improve spare parts management, being most careful that the quality or responsiveness to the support of our major systems is not impacted. The safety, reliability, readiness and effectiveness of our forces must not be compromised.

An Air Force program called PACER PRICE has screened 529,000 items for evidence of dramatic price increases. The results showed that, from 1982-1983, only four percent of the items screened reflected increases over 100 percent, and indeed, 92 percent of the items remained constant, or actually went down in price. This raises the question as to the cost effectiveness of the extensive, far-reaching initiatives proposed by the Secretary of Defense, when the size of the troublesome portion of the spares budget is placed in perspective with other high priority issues the DoD faces at this time. We suggest cost trade off judgment be exercised to assure that these initiatives do not result in higher costs than the results justify.

We would appreciate the opportunity to further discuss spares management and acquisition issues. We will be pleased to make available experienced representatives from a wide range of spare parts producers.

The defense industry has a common objective with the DoD to improve spare parts acquisition management significantly. We stand ready to contribute to those efforts in any way you believe will be of the greatest value.

Sincerely,

Karl C. Harr, Jr.
President
Aerospace Industries Association

Wallace H. Robinson, Jr.
President
National Security Industrial Association

Jean A. Caffiaux
Vice President
Electronic Industries Association

Kenneth C. O. Hagerty
Vice President
American Electronics Association

Sheridan Brinley
Motor Vehicle Manufacturers Association

for
R. Lee Rice
President
Shipbuilders Council of America

Attachment

Comments and Recommendations on Issues in Secretary of Defense Memorandum of 29 August 1983

Near-Term Actions (within 90 days)

- Provide resources to induce desirable breakout, effective competitive procurement, and improved pricing in the acquisition of spare parts.

  - We agree with the statement that additional resources are needed to induce desirable breakout, effective competitive procurement, and improved pricing in the acquisition of spare parts. The current criticism of spare parts management reflected in the media has focused on questionable prices for low dollar value items. The principal challenge, therefore, is to achieve the above objectives in the low dollar value spare parts range without spending more money on additional resources than would be saved by avoiding any occasional distortion in prices.

  - We recommend that DAR Supplement No. 6, issued June 1, 1983, be followed to assure that the most cost effective breakout decision is made by the DoD.

  - Contractors are required by the Cost Accounting Standards (CAS) to estimate costs for pricing purposes consistent with cost accounting practices used by them in accumulating and reporting costs. The initiative to improve the pricing of spare parts will have to deal with this CAS requirement.

- Apply the DoD Parts Control Program to enhance competition. The optimum use of standard military parts or commercially available parts in development of new systems will be mandatory.

  - The new initiative to optimize the use of standard military parts or commercially available parts in new weapon systems, while preserving the contractor's motivation to design the best possible system to counter the forecasted threat, is commendable. Implementation of the initiative must recognize the necessity to maintain weapon system integrity and reliability, and to assure a sustained source of supply for the life of the weapon systems.

- Accelerate plans for acquisition of computer hardware and software to assist parts control personnel.

  - We note that this initiative was one of the major recommendations of the CORONA REQUIRE study. As this initiative is an internal matter between OSD and the Services, we have no other comment to make at this time.

- Institute action to identify disparities in spare parts prices within and among various procuring activities.

  - We strongly support this initiative as a method of highlighting to DoD management the numerous low dollar value spare parts orders currently being received for the same item. DoD may wish to start by revising the numerous spare parts orders from the same command and Service. A number of defense firms have independently established procedures to assist the DoD in identifying such problems.

- Employ value engineering to investigate spare parts where cost or price exceeds intrinsic value.

  - We agree. For value engineering or value analysis to be effective, however, the parts' cost must consider all the services which are factored into the price of the part. They usually include manufacturing, purchasing, materials management, quality control, configuration control, field service support, warrantees, EAPS (Engineering Assistance and Production Support), and IR&D, to name a few. These services must be fully understood in the value engineering process. Furthermore, value engineering as a management tool, must achieve the desired function of a spare part at the lowest total cost consistent with requirements for performance, reliability, quality, maintainability, and safety.

- Assign more engineering resources to review new reprocurement data packages for adequacy.

  - We agree, since there are current competitive procurements that use inadequate data. This could have an adverse effect on vital weapon systems. As important as the number of assigned personnel is their skill level and experience. It will take time to get the proper staff in place to do an efficient job.

- Develop and test a procedure to make breakout of spare parts a factor in source selection for new major systems. Develop new incentive arrangements to reward contractors for cost savings generated by their efforts.

  - We agree in general with the concept that breakout must be considered up front in the source selection process. It may not be practical to break out components initially. Because of aging technology, however, what is unique today in manufacturing may be commonplace in the future industrial base.

    Concerning incentive arrangements, it should be noted that new incentives must provide defense contractors with compensation which will at least equal profits lost in long-term business caused by breakout of parts.

    We recommend that the DoD in its Request for Proposals (RFP's) for new major systems require that the contractor develop a plan for breakout of spare parts. The RFP should specify the evaluation criteria and the incentive arrangements for rewarding contractors for cost savings accrued from breakout.

The contractor could be required to address reprocurement data, multisourcing, and data rights. Where limited rights data are involved, the contractor's plan could specify alternatives as to how and when the DoD could acquire the data with unlimited rights, or appropriate license rights. The specific contractor performance and government incentives could be negotiated up front to assure a successful and disciplined breakout program.

- Negotiate contract data provisions which, as appropriate, reduce Contractors' proprietary rights in data. A DAR deviation is approved for this purpose.

  - We agree that, as appropriate, the DoD should negotiate to procure unlimited rights in data, or appropriate license rights, but DoD should recognize that a unilateral approach to reducing a contractor's proprietary rights in data is a disincentive to innovation.

    Relative to a DAR deviation, we believe the current DAR clauses on the subject balance the interest of the DoD in obtaining rights in data with the interest of industry in protecting data that is privately developed. Under the current DAR, the DoD obtains more deliverable data than any commercial customer. A shift in the balance toward the DoD will discourage innovative technology pursuits by contractors doing business with DoD.

    We recommend that the DoD carefully consider its needs and the rights of contractors as any new initiatives are implemented to reduce contractor proprietary rights in data. We recommend that the DoD use current DAR coverage, including DAR Supplement No. 6.

- Pursue appropriate refunds or other recoupments vigorously following any audit or other disclosure of incorrect pricing or overcharge.

  - We agree that refunds should be made to the DoD or credits should be applied to other DoD procurement, as directed by the DoD, where legal entitlement exists. Errors by either the DoD or its contractors should be corrected.

- Review existing contracts to fully address any and all opportunities for improved pricing of spare parts, including breakout and competition.

  - We agree that a DoD review of the high dollar value contracts would be beneficial. It should be recognized that such a review will require additional personnel with the skills needed to assure appropriate decisions concerning breakout and competition.

- Instruct acquisition personnel to challenge any procurement action for spare parts where estimated or negotiated price appears unrelated to intrinsic value.

  - We concur that acquisition personnel should challenge spare parts prices when such prices appear out-of-line compared to intrinsic value. To facilitate response, we recommend that inquiries directed to contractors continue to be submitted through the appropriate Procurement Contracting Office. Several defense contractors are reviewing their procedures to arrive at an equitable arrangement which will be mutually acceptable to all parties concerned.

- Designate acquisition of spare parts and reprocurement data as an agenda item in Acquisition Strategy Panels, Advance Acquisition Plans, and Acquisition Review Councils.

  - We concur. Spare parts is a major element of defense programs, and additional management attention will benefit all concerned.

    We recommend that as part of those reviews a cost/benefit analysis for reprocurement data be provided. This analysis should recognize not only the cost to acquire the data, but the cost to store, retrieve, protect, update and control usage of the data.

- Revise performance evaluation factors for acquisition and logistics managers. Include emphasis on spare parts pricing, breakout, competition, and value engineering accomplishments.

  - We concur. The factors of breakout, competition and pricing must not, however, be the only, or even the most important, measures for performance by logistics managers. The primary measure for defense systems must be readiness and capabilities.

- Implement DAR Supplement No. 6, "Replenishment Spare Parts Breakout Program" upon receipt.

  - We agree with the basic concepts of this DAR supplement. It offers a disciplined approach to breakout, and requires logical consideration of technical, legal, and economic factors in making a final decision on breakout.

    Our main concern is that this supplement allows a procurement officer to take unilateral actions through the limited screening procedure which could break out parts to an unqualified producer. This could undermine the safety, reliability, or timely supportability of our defense systems.

We recommend that a joint DoD/industry effort be undertaken, as DAR Supplement No. 6 is implemented, to update and establish credible acquisition method codes. For all major systems spare parts, we recommend that the DoD adhere to this disciplined process for changing codes. Procurement officers should be advised that: (1) limited screening procedures should be exercised only on an exception basis, and (2) industry's input must be considered in establishing the final acquisition method code. DAR Supplement No. 6 can be successfully implemented if DoD and industry work together.

- Consider in all contracts, as appropriate, the Government's right and ability to break out and procure competitively spare parts.
  - Any breakout action should be cost effective. The cost for continued oversight and control of spare parts by the prime contractor may be warranted by the difficulties of manufacture or critical nature of the technology applied. In such cases, services performed by the prime in product support, quality assurance, contract administration and overall management might well determine the breakout decision.

    As noted earlier, DAR Supplement No. 6 provides for a structured and disciplined process by which the DoD should break out spare parts.

- Discourage use of Government specifications and contractor proposed engineering designs that inhibit subsequent competitive procurement of spare parts.
  - We agree that specifications must be tailored and not become excessive for the intended application. Specifications should be imposed equally on prime contractors and any other suppliers in a competitive situation. Engineering designs and changes should continue to be justified on the basis of a valid life-cycle cost savings or as a response to a safety concern.

While the DoD approach is a reasonable one, it must be realized that use of state-of-the-art technology is required in production of advanced weapon systems. If there are proprietary processes or techniques embodied in contractor specifications which require substantial capital investment and provide a technical design advantage, they should not be discarded simply because they may not initially allow competitive procurement. Since the technology base of manufacturing is constantly changing and expanding, competitive procurement of these current high technology designs could be practical in the near future without compromise to the end item integrity.

We recommend that the DoD and industry work together to assure that specifications applied to new major system designs are necessary and cost effective. We further recommend that contractor engineering designs and changes be accepted and approved by the DoD only when they are the most cost effective approach, including competitive procurement considerations as provided for in DAR Supplement No. 6.

- Continue action on my "Ten-Point" Program to insure that prices paid for all spare parts are fair and reasonable.

  - We support the basic thrust of the "Ten Point" Program that prices paid for all spare parts are fair and reasonable. However, it is important to note Secretary Weinberger's tenth point, in which he states that in the majority of cases the DoD has been satisfied with the quality and prices of the millions of spare parts purchased each year. He refers to "the failures of a few."

This raises the important question of whether the many actions required by the Program will actually result in greater costs to the DoD than the results justify. The Secretary's statement that it is the DoD's responsibility to ensure that "not one dollar of the taxpayers' money" is wasted reflects a commendable goal, but in reality not a very practical one. No institution dealing with millions of transactions by thousands of people will ever reach 100% perfection. The question the DoD must face is what level of additional resources, and changes in the present way we do business, will be required to reach the optimum level of spares acquisition and management. We suggest this would be considerably less than that required to protect that last single dollar spent on spare parts.

The full pursuit of the Secretary's program might well reshape a large segment of defense industry and the DoD itself. It would generate an industry made up of engineering and design firms, system integrators, and specialized parts producers. The actual role and responsibility of the DoD would be substantially broadened, requiring the employment of thousands of additional personnel, with skills not currently available within DoD staffing to provide the management currently provided by prime contractors.

Thus, the implementation of the "Ten Point" Program should be considered in measured steps with an appreciation for that optimum level of effort which does not exceed the hoped for results.

Mid-Term Actions (within 180 days)

- Reexamine existing policy on patent and data rights arising under Government funded R&D.

  - The current policy on patent and data rights developed under Independent Research and Development vests all rights in the contractor. This policy recognizes that such development is truly an independent, contractor undertaking directed toward future viability. All businesses look at developing products for the future, and the associated costs are merely costs of doing business that properly should be factored into the prices of current products. DoD, as a purchaser, merely pays its allocable share of this cost of doing business. The DoD should have rights only in data for items developed under its contract-sponsored research and development. The current policy should be retained.

    This position is also supported by the President's Government Patent Policy Statement signed out February 1983.

- Expand training curricula to insure proper emphasis, understanding, and technical skill level for all personnel engaged in the acquisition of spare parts.

  - We will assist in any way possible to meet the DoD's training objectives. It is important to understand that much of the expertise needed now resides in industry, especially for those personnel requiring manufacturing, quality control and computer training.

- Assign special task forces to review existing reprocurement data packages for spare parts with high annual buy/quantity values.

  - We agree that review of existing reprocurement data packages may well prove beneficial to the DoD. We would emphasize that such a review, even by special task forces, should be in accordance with DAR Supplement No. 6.

    The data provided by industry under contract to the DoD met the requirements of the various contracts at that time. Data, provided in the 60's and 70's when reviewed by today's standards, may need rework, additional information, or the updating of data from both prime contractors and subcontractors.

- Evaluate and make recommendations for changes to existing authorization, appropriation, apportionment, budgeting, and financial management practices, and regulations pertaining to acquisition of spares.

  - We concur. Changes which allow for simplification of the provisioning process, multi-year procurement, buyouts of support for old programs, procurement of major provisioning or replenishment spares with production of the major system, and allowing recoupment by industry of inventory carrying costs to shorten leadtimes, will all help to lower costs and improve readiness. In addition, any actions which can be taken to promote program stability should be pursued.

- Pursue with appropriate Congressional Committees and their staffs the merit of a two-year authorization for acquisition of replenishment spare parts and consumables.

  - This concept has merit and should be pursued as a means of economic procurement of spare parts and consumables. Some suggested points to consider include:

- Establishment and procurement of economic order quantities.
- Procurement of selected spares on a multi-year basis.
- Maintenance of current leadtimes.
- Authorization for acquisition on multi-year basis.

• Insist upon contract terms and conditions in all future acquisitions that afford more equitable treatment and provide for greater assurance of fair and reasonable prices.

- We believe that current laws and regulations appropriately applied and adequately implemented protect the DoD's interests as evidenced by numerous case histories. These laws and regulations are the result of decades of mutually beneficial business agreements between the DoD and its contractors. We do not believe quick fixes will give the DoD or industry any greater assurance of obtaining a fair and reasonable price for parts than those clauses routinely included in current contracts.

Long-Term Actions

• Automate data repositories to improve the acquisition, storage, update, and retrieval of reprocurement and technical data.

- This was one of the Major "CORONA REQUIRE" recommendations. To quote, "without question, the single most significant problem is the totally ineffective computer system now available...." We agree.

• Evaluate and assess accomplishments under the near- and mid-term actions for additional policy direction, as appropriate.

- We agree that this is a necessary effort. We have witnessed many programs that failed to mature because of inadequate reporting and lack of management follow-up and control.

Senator Nickles. Mr. Biddle.

STATEMENT OF A.G.W. BIDDLE, PRESIDENT, COMPUTER AND COMMUNICATIONS INDUSTRY ASSOCIATION, ARLINGTON, VA

Mr. Biddle. Let me begin by saying S. 2489 squarely addresses a number of real impediments to free, fair, and open competition within the Federal marketplace; a well-researched, thoughtful, and a well-written piece of legislation.

I represent the Computer and Communications Industry Association, an association of some 70 member companies ranging from new, young startups to some of the larger firms in the industry. They produce computers, data storage systems and subsystems, printers, terminals, word processors, large- and medium-sized PBX's and switches, and a variety of other equipment. Products are primarily produced for the commercial marketplace. Because they are the leading edge of technology and the Government is constantly looking for a way to do business better, they buy our products, also.

We applaud your efforts to put competition back into the Federal procurement process. Thanks to Public Law 89-306, the Brooks Act, Federal procurement of our industry's products is highly competitive. Competition is a fact of life that the industry has lived with in its short 40 year existence.

We are concerned, however, that some of the language in S. 2489 might cause mutual problems. Let me be more specific.

This is a computer chip taken from an Amdahl computer [indicating], and I would like to pass it up so that you can examine it.

When you look at this little chip, actually most of what you are looking at is the cooling tower, the black portion of it, which is intended to dissipate the heat from the chip itself into the surrounding air.

The chip itself is at the very bottom of that cooling tower, and you have to look at it sideways to even see it because it is slightly smaller than your smallest fingernail.

That little chip is part of the brains of today's most advanced computers. Like the screws and bolts we have all heard about, this chip is also a spare part under some sections of the bill under consideration. It is certainly part of many subsystems that may be replaced during the service life of a major system.

However, unlike a screw or a bolt, or another common piece of hardware, it has a number of unique characteristics. You cannot buy one of these in a hardware store or in your local computer store.

Within that little chip there are 400 gates or individual logic circuits. It processes instructions at a rate of one every four-tenths of a nanosecond. A nanosecond is one billionth of a second.

Over 1,000 of these chips, containing over 435,000 circuits, provide just the logic in an Amdahl 580 computer. It is an integral part of a computer system developed for sale into the commercial marketplace, but which has, because of its price and performance, also been purchased by numerous Federal and State agencies.

The initial cost to develop the little chip you have up there was between $30 and $40 million, not Federal dollars, but private venture capital and reinvested profits. Because of this investment, this fantastically complicated device can now be manufactured for approximately $100 each.

The design contained inside of that chip is proprietary to Amdahl Corp. There are no laws by which they can copyright it, patent it, or otherwise protect it except through common law trade secret.

We do not believe that it is your intention under this bill to confiscate the legitimate proprietary rights of Amdahl or any other manufacturer who has invested his own funds to develop products for sale in the commercial marketplace and to the Federal Government.

Specifically, though, the bill requires the existence of proprietary data in any "individual part, subassembly, assembly or subsystem integral to a major system, which may be replaced during the service life of the system" must be disclosed. As I read it, then Amdahl or any other commercial computer manufacturer that also sells to the Federal Government faces several problems.

Section 5, paragraph 7, authorizes the Government to disclose limited data rights to third parties to review the justification for the manufacturer's claims. This potentially hands over extremely valuable technical information that cannot be protected by patent or copyright to a competitor who in turn could incorporate these trade secrets into his own product and compete back against the originator in the commercial marketplace.

I recognize that the bill at page 12, line 14, places restrictions on that contractor, but, gentlemen, our industry is largely built on trade secret know-how and innovation, and that is very difficult to enforce the copying or the theft of proprietary ideas.

Further——

Senator DIXON. If I may interrupt, it is not our intention to take away your secret or proprietary rights.

Mr. BIDDLE. I understand that. We just would like to see the language tightened up where we have a clear distinction——

Senator DIXON. Mr. Chairman, I am a little out of order, but if you don't mind, it is so important to me that you understand that, all of you on this panel, and there are others in this room listening who are concerned. I want you to convey to us what you think is necessary language to protect you in this act, if you do not think it is in there now.

I do not think the chairman, myself, or Senator Weicker, or anybody, wants to force you to give up trade secrets. Now we wouldn't mind having it in here in a clear way that we have a right as a Government to buy them from you, if you want to sell them, but we do not want to force you to do that.

Am I stating the facts as——

Mr. BIDDLE. That is our understanding, also, Senator. However, we are concerned.

One piece of language we suggested in our prepared statement, subject to further refinement, is that if the——

Senator DIXON. May I interrupt you a minute?

Would you look at page 23, line 4? I hate to interrupt you, but it is so important.

Mr. BIDDLE. Page 23, line 4, as I recall, exempts——

Senator DIXON. Here is what it says:

> Technical data, as herein defined, does not include technical data or commercial products or components thereof developed at private expense.

Mr. BIDDLE. I agree, and that should give me peace of mind, but, unfortunately, after 12 years in Washington, I am paranoid. I don't want to find a Federal employee of a contracting officer on a fishing expedition trying to establish that somehow, because Amdahl sold a system to NASA 7 years ago, that chip has $5 worth of Federal money in it, and "By God, the Government has the rights to it."

I want to exempt clearly commercial products. The way we suggest doing it is that in our industry, when we offer a product to the consumer, generally that product is warranted and we indemnify the user against any possible patent infringement, copyright, or trade secret suits. I would suggest that if we are selling our product to the consumer market and so indemnifying the user, that should stand as prima facie evidence that it is, in fact, a commerciallydeveloped product proprietary to the manufacturer and should be exempt from this legislation. It gives us a clean test.

[The prepared statement of Mr. Biddle follows:]

CCIA

STATEMENT OF

A.G.W. BIDDLE

ON BEHALF OF THE

COMPUTER & COMMUNICATIONS INDUSTRY ASSOCIATION

BEFORE THE

SENATE COMMITTEE ON SMALL BUSINESS

RELATIVE TO S.2489

SMALL BUSINESS COMPETITION ENHANCEMENT ACT OF 1984

APRIL 12, 1984

Computer & Communications Industry Association 1500 Wilson Boulevard Suite 512 Arlington, Virginia 22209 (703) 524-1360

Good morning Mr. Chairman and members of the Committee.

Thank you for this opportunity to appear before your Committee to present some observations on S.2489 - The "Small Business Competition Enhancement Act of 1984." Let me begin by saying that S.2489 squarely addresses a number of real impediments to free, fair, and open competition within the federal market; it is a well researched, thoughtful, and well written piece of legislation.

As you know, I represent the Computer & Communications Industry Association, a Washington-based trade association consisting of some seventy member companies. Our members develop, manufacture, and market computers, data storage systems, terminals, word processing equipment, medium and large scale telephone switching equipment, and a variety of other related products. The vast majority of these products are developed for, and sold to, the commercial marketplace. However, because they are among the most technologically advanced products of their kind in the world today, a portion of our member companies' output is sold to the U.S. Government to perform tasks similar to those performed in private industry.

As President of the Association I have a duty to my members to keep them abreast of changes in Federal procurement law and policy and, when possible, to provide facts to the Legislative and Executive Branches of the Government which may aid in the formulation of sound solutions.

As I understand it, S.2489 is intended to cause procuring agencies to:

1. Plan for competitive sources of spare parts supply at the earliest stages of a procurement;

2. Reduce the existing impediments to participation in Government contracts by small and minority owned small businesses; and

3. Assure government access and rights to the data needed to seek alternate sources of supply for replacement parts procurement.

Let me say that we applaud your efforts to put competition back into the federal procurement process. Thanks to Public Law 89-306 (The Brooks Act) Federal procurement of our industry's goods and services has historically been much more competitive than might be the case in major weapons systems procurements. Our member firms are comfortable in a highly competitive environment -- it has been a fact of life since the inception of our industry just four decades ago.

We are concerned, however, that some of the language in S.2489 might inadvertently create some serious problems with respect to federal government procurement of our industry's leading edge products.

Let me be more specific. I am holding in my hand a "chip" taken from an Amdahl computer. Actually, most of what you are looking at is a "cooling tower" which allows dissipation of the heat from the chip itself into the surrounding air. The "chip" itself is not much larger than your smallest fingernail, yet it is part of the "brains" of one of today's more advanced computers.

Like the screws and bolts we have all heard about, this chip is also a spare part under some sections of the bill under consideration in that it is part of many "subsystems" that may be replaced during the service life of a major system. But unlike a screw or bolt or other piece of common hardware, it has a number of unique characteristics:

1. You cannot buy one in a hardware store or even in your local computer store.

2. Contained within this chip are 400 gates -- individual logic circuits.

3. It processes instructions at a rate of one every 4/10 of a nanosecond (a nanosecond is one billionth of a second).

4. Over 1,000 of these chips, containing over 435,000 circuits, provide the logic in an Amdahl 580 computer.

5. It is an integral part of a computer system developed for sale into the commercial marketplace but which has, because of its price and performance, also been purchased by numerous Federal and State agencies.

6. The initial cost to develop this little "chip" was between thirty and forty million dollars -- not federal dollars, but private venture capital and reinvested profits. Because of this investment, this fantastically complicated device can now be manufactured for about $100.

7. The design contained inside of this chip is proprietary to the Amdahl Corporation. There are, however, no laws on the books that allow them to patent that design or even to copyright the very complex and expensive masks that are used to make it. Their only protection is trade secret protection under common law.

We do not believe that it is your intention under this bill to confiscate the legitimate property rights of Amdahl or of any other manufacturer who has invested its own funds to develop products for sale to the commercial and the Federal market. Yet I fear that the bill, in its present form, may unintentionally do great damage to the further development of my industry and its ability to do business with the federal government.

Specifically, the bill requires that the existence of proprietary data in any "individual part, subassembly, assembly or subsystem integral to a major system, which may be replaced during the service life of the system" must be disclosed. As I read it, then Amdahl or any other commercial computer manufacturer that also sells to the federal government faces several problems.

First, Section 5(7) authorizes the Government to disclose limited rights data to a third party to review the justification for the manufacturer's claim. This potentially hands over extremely valuable technical information that cannot be protected by patent or copyright to a competitor who in turn could incorporate these trade secrets into his own product and compete with the original developer in the commercial as well as Federal marketplace. I recognize that the bill at page 12 line 14 places restrictions on the contractor employed to evaluate data limitations but enforcement of these restrictions for products of the type produced by our industry would be extremely difficult.

Second, Section 3(1) requires that substantial weight be given in the evaluation process to vendor proposals that give or offer to sell the federal government the technical data associated with parts that may be replaced during the system's life. Could this provision cause the procuring agency to buy an IBM model 360 -- a two decade old technology -- because IBM would consider the technical data worthless in today's competitive market and offer it freely?

The chip that I showed you earlier is the fruit of a research and development effort that cost Amdahl tens of millions of dollars. Would Amdahl be effectively foreclosed from competing for government business because they might be unwilling to make this valuable proprietary data available to potential competitors at any cost?

I am particularly concerned that the current thrust of the bill puts a potentially heavy administrative and financial burden on the vendor to establish that his parts, subassemblies, and systems are indeed proprietary. We would suggest that language be incorporated in the bill to the following effect:

> "If the component, subassembly, assembly, or system was or currently is marketed to the general public and the manufacturer warrants and indemnifies the buyer against trade secret, patent, or copyright infringement suits, it will be deemed to be conclusive proof that the contractor has proprietary rights in the data contained therein; that it is a commercial product, and is not subject to the provisions of this bill."

This would not weaken the bill's intent to address the spare parts issue in major weapons system procurements. It would, however, reduce the likelihood that many firms in my industry would find it no longer in their best interest to offer their newest commercial products to the federal government.

In this regard, I would also like to note that the term "major system" throughout the bill gives me some cause for concern. In Section 8(3) it is a "'major' system if (a) the Department of Defense is responsible for the system and the total expenditures for research, development, test and evaluation are estimated to be more than $75 million or an eventual total expenditure for procurement of more than $300 million."

The Army's project "Viable" program to modernize and upgrade its computer systems would thus be defined as a "major system" yet the procurement consists almost entirely of commercial off-the-shelf computer equipment and software that was developed with private, not public, funds. I might also point out that this procurement was one of the most competitive major DOD buys in the past decade.

Similarly, Section 8(3) goes on to define a system purchase in excess of $750,000 by a civilian agency as a "major system". This definition would inadvertently, I believe, reach to virtually every federal acquisition of a medium scale or larger computer system. Again, I do not think it was your intention to usurp the proprietary rights in data of the commercial manufacturers who also sell their products to the Government.

At page 23, lines four through six, the Committee has wisely excluded 'Technical data' for commercial products or components thereof developed at private expense. Although this appears to address some of the problems I have addressed, I would urge the Committee to further amplify on this exception and provide report language that reduces the likelihood that procurement personnel might seek to gain access to the proprietary data that is the lifeblood of our industry.

We would be happy to work with your very able staff to perfect this bill to this end.

Thank you.

Senator **Nickles**. Thank you, Mr. Biddle.

Thank you to our panelists. I appreciate your comments. I think many of the comments that you made, as well as the comments Mr. Adams and Mr. Joseph made, are well put.

As I stated, as a cosponsor of this legislation— and I think Senator Dixon has mentioned this as well—we are not saying that this legislation is totally perfect, and we appreciate some of the suggestions that you have made, which we will review with other interested parties and see if we can come up with something that we can live with, which will not be an impediment or an infringement on the free enterprise system, but which actually will encourage and promote competition, not move in any measure to restrict it.

Senator Dixon, do you have any other questions?

Senator **Dixon**. I want only to pursue what the chairman has said to this extent, if I could, with all of you. I want to thank Mr. Joseph, from that very prestigious organization, the U.S. Chamber of Commerce, for sending us its message of qualified support for this legislation. We hear what you are saying. It is qualified support.

We think the legislation needs some refinement.

I want to say to you, Mr. Adams, and to you, Mr. Biddle, that you have specifically suggested to adjust provisions of the bill some things you take exception to, and we are listening to you and we want to improve this legislation.

Now what is not adequate is people are saying, "We don't want a bill." See, we are going to have a bill. Do you understand that? We are going to have a bill. Now that is the message you ought to take out of this room.

Therefore, what we want is your suggestions on how we can improve this legislation. Now we are very fair people, and we do not want to take your trade secrets; we do not want to take your proprietary interests that you have spent tens of millions of your own dollars developing; this Senator doesn't want to do that and the chairman doesn't want to do that.

If you will carefully do just as Mr. Adams has done—see how I have marked this bill, Mr. Adams, where you were talking about it? If you will state, as to each of these sections, "Here's what we don't like about this section. Here's what would protect us as an industry while permitting the Government to look for competition, so that the small business people can get into the system," that is what we want to hear from you.

I am frustrated sometimes—and I will only take a moment longer, Mr. Chairman—I am a member of the Armed Services Committee, and we are going to have to save a lot of dollars there this time. I am, like the chairman, a great supporter of our national defense, but when they come in and say, "Well, that's fine, you find a place to cut it; we won't suggest where we think we can afford to take a cut," that is the same thing we hear so often: "Well, you do it. We don't like what you're doing, but you do it."

I can see you have some exceptions with some of these parts. I am saying to you, if you don't like what we are doing here as a principal cosponsor, you tell us what you think would improve this bill while protecting the interests of the Government and getting small business concerns into the stream of competition in this country, and I will promise you we will listen.

You give it to us in writing, Mr. Biddle, and you, Mr. Adams, and to the extent you want changes, Mr. Joseph, with Ms. Brown and Ms. Morin, and I assure you that you will get our very serious attention and consideration.

Mr. **Biddle**. We have always found this committee's staff to be extremely cooperative and helpful, and we will certainly work with you. We would like any legislation that would kill H.R. 2133. [Laughter.]

Mr. **Joseph**. Senator Dixon, our formal statement did have several pages of section-by-section critique, and we will seriously go beyond that in working with your staff to try to come up with something that everyone can live with.

Senator **Dixon**. We greatly appreciate that.

Senator **Nickles**. Thank you very much.

[Subsequent information was received and follows:]

LOWELL WEICKER, JR., CONN., CHAIRMAN

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United States Senate
COMMITTEE ON SMALL BUSINESS
WASHINGTON, D.C. 20510

April 17, 1984

Mr. Jeffrey H. Joseph
Vice President
Domestic Policy
United States Chamber of Commerce
1615 H Street, N.W.
Washington, D. C. 20062

Dear Mr. Joseph:

I would like to extend to you my thanks for testifying at the Senate Small Business Committee's April 12, 1984 hearing on S. 2489, the "Small Business Competition Enhancement Act of 1984", and S. 2434, a bill to amend section 15 of the Small Business Act by requiring the assignment of breakout procurement center representatives at major procurement centers. Your written statement and your oral testimony will be very helpful to the Committee during our further consideration of these two bills.

Due to the time constraints of the hearing, several important points raised by your written statement and oral testimony were not fully explored. In order to make the hearing record complete, the Committee would greatly appreciate it if you would provide written responses to the attached questions, which will be included in the printed hearing record.

Presently, I intend to include these bills on the agenda for a Committee mark-up session scheduled for May 8th. Therefore, it is essential that your written responses be received by the Committee no later than April 27, 1984.

Your responses should be directed to the Committee on Small Business, United States Senate, Room 428A Russell Senate Office Building, Washington, D.C. 20510, to the attention of William B. Montalto, the Committee's Procurement Policy Counsel. Should you have any questions concerning this request, and any requests made during the course of the hearing, please telephone Bill at 224-5175, or Alan L. Chvotkin, Minority Chief Counsel, at 224-8497.

Again, thank you for your participation at this important Committee hearing, and for promptly furnishing the responses to our questions for the record.

With every good wish, I am

Sincerely,

LOWELL WEICKER, JR.
Chairman

Enclosures

QUESTIONS FOR MR. JOSEPH (FROM SENATOR WEICKER)

- In your suggested modifications to S. 2489, you question the provision of Section 4(a)-(n)(3) which would require the procuring agency to bear the testing and evaluation costs incurred by a small business concern ultimately determined by the agency to be qualified, if the number of qualified sources is "fewer than five". Your suggested modification seems to recommend that "fewer than three" would be a more cost-effective standard.

If the purpose of this provision, and of S. 2489 generally, is to concurrently expand the Nation's industrial base and increase competition for federal requirements, isn't a higher threshold likely to be more effective in keeping the Government actively searching for new "quality" sources and in encouraging such "quality" sources to seek prequalification ?

- In your suggested modifications to Section 4(b)(1)(E) of the bill, you suggest that the requirement to publicly post the full text or an abstract of a solicitation below $10,000 should have a cost-effective floor. Currently, the DOD Supplement to the Federal Acquisition Regulation (FAR) makes posting of solicitations (in full text) optional when the resulting award is expected to be less than $5,000. This action brought numerous complaints from many small businesses and the associations that represent them.

(a) Doesn't the bill's provision provide some administrative relief by authorizing the publication of abstracts (with access to the full text of any abstracted solicitation) without establishing a floor below which the requirement for any form of public notice of a procurement opportunity is waived ?

(b) Where would the Chamber of Commerce set the floor, if such a floor is essential to procurement efficiency ?

- S. 2489 was drafted as a closely woven package of interrelated provisions designed to attain the bill's stated purposes.

In your opinion, are certain provisions more important than others in attaining those purposes ?

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

JEFFREY H. JOSEPH
VICE PRESIDENT
DOMESTIC POLICY

1615 H STREET, N.W.
WASHINGTON, D.C. 20062
202/463-5493

June 26, 1984

The Honorable Lowell P. Weicker, Jr.
Chairman
Committee on Small Business
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your letter wherein you posed written questions relating to the Senate Small Business Committee's hearing on the "Small Business Competition Enhancement Act of 1984," (S. 2489).

o Although the purpose of S. 2489 is to increase competition, neither government nor taxpayers should be forced to bear the expense of qualifying additional companies unless there are only two qualified companies available. The overall financial burden to the agency will increase substantially without necessarily providing the commensurate benefit of obtaining a product of appropriate quality. It is likely that, where five companies attempt to compete in a market that will effectively support two or three, higher unit costs will result since product volume required for economy and efficiency will never be realized.

o (a) The bill does provide some administrative relief by authorizing the publication of abstracts. But even posting the abstracts below a certain dollar volume would be burdensome. The provision would entail the posting of hundreds of thousands of small dollar actions. In all probability, the time and cost involved would offset any benefit.

(b) We believe legislation should authorize the Department of Defense to establish a floor for posting. Each of the military services might need a different floor based on location and volume of business of the individual procuring centers. There must be flexibility in implementation of this provision.

o The various provisions of S. 2489, as a whole, provide a coherent plan for instituting systematic reforms designed to remove specific obstacles to competition without compromising the quality of products and services the government buys.

However, I believe the bill can be divided into those measures designed to produce immediate results, and those whose effect will be realized over the long term. While both approaches are important and necessary, I believe it is useful to the small business community to distinguish between the two.

The Breakout Procurement Center Representative (BPCR) program established by S. 2489 should be extremely effective in increasing competition and opening the federal procurement process to more qualified small companies over the short term. These BPCRs, employed by the Small Business Administration, would identify spare parts that currently are procured on a noncompetitive basis by each major federal procurement center. Their efforts to "break out" these items for competition should have an immediate effect on the number of items available for small companies to supply directly to federal agencies.

The remaining provisions of S. 2489, dealing with technical data rights and availability, qualified sources, and other procurement practices that inhibit small business participation, address long-term problems by integrating needed reforms into the planning and design cycle of major systems. These reforms provide a solid beginning toward untangling a complicated and difficult series of problems that over many years have had the effect of excluding small businesses from selling their products to the government and artificially raising the cost of many items purchased by government agencies.

The U.S. Chamber believes both long- and short-term approaches are valid, and commends the members of the Small Business Committee for their efforts to see the provisions of S. 2489 signed into law.

Sincerely,

Jeff Joseph

Jeffrey H. Joseph

Senator **Nickles**. Our next and final panel consists of Bruce Hahn, manager of government affairs for National Tooling and Machining Association; Charles Engfer, vice president of Lynmar Sales, and trustee of the National Small Business Government Contractors Association, from Fairfield, New Jersey; and Joseph Petrillo, the National Association of Aircraft and Communications Suppliers from California.

Mr. Hahn.

STATEMENT OF BRUCE N. HAHN, MANAGER OF GOVERNMENT AFFAIRS, NATIONAL TOOLING AND MACHINING ASSOCIATION, FT. WASHINGTON, MD, ACCOMPANIED BY PAUL J. SEIDMAN, SPECIAL COUNSEL TO THE ASSOCIATION

Mr. **Hahn**. Thank you very much, Senator Nickles.

My name is Bruce Hahn. I am manager of government affairs with the National Tooling and Machining Association. On my left is Paul Seidman, special counsel to the association.

We very much appreciate the opportunity to appear here today and to provide our input as the committee reviews this legislation designed to improve Federal Government procurement practices.

We are most grateful to Senator Dixon and the cosponsors of S. 1730 for their efforts in the area, and we are equally grateful to both Senators Weicker and Dixon, and many others, for the work on the second generation of the procurement legislation.

We will limit our comments to the area of military spare parts procurement, all of which has been, or could have been, manufactured directly or indirectly by members of our association.

The current state of military spare parts procurement is a national disgrace. It is a monument to incompetence and irresponsibility of procurement policymakers in the Department of Defense. To paraphrase a famous quote, "Never have so few wasted so much with such contempt for so many."

We do not blame the problems on the senior appointees in this administration or, for that matter, the appointees in any previous administration. Those individuals have to rely, as do members of this committee, on staff support. If those senior appointees were supported by individuals who had the dedication and sincerity of both the majority and the minority staff of this committee, we wouldn't have a problem in spare parts procurement.

Instead, procurement policy is not truly determined by the Secretary of Defense, nor by the heads of service branches, but rather by nameless and faceless bureaucrats who hide in the bowels of the Pentagon. As far as we can determine, these individuals view the current procurement horrors as a public relations problem, and their efforts have been directed at providing their superiors with proposals that will sound as good as possible to the public while requiring as few changes as possible in current procurement methods.

We do not blame the problem on either large or small prime contractors. Most of them have excellent records of subcontracting to small business. Many of them are our members. They, large or small prime contractors, don't make procurement policy. A handful of procurement executives make that policy.

Those $9,600 allen wrenches, $7,400 pieces of copper wire, $2,000 nuts, $1,000 bolts, and $1,000 screws for the most part are not stories about prime contractors breaking regulations. They are stories about companies adhering to the most absurd set of regulations ever concocted by a Government agency.

Let me put this problem into perspective. DOD spends a total of $13 billion each year on spare parts procurements. From what we have been able to determine, less than 10 percent of that amount is procured through open competition. Most of the remaining $11.7 billion each year is procured through sole-source procurements. We cannot think of a more telling piece of evidence to document our belief that those procurement executives in the Pentagon do not want to buy competitively and will not do so unless forced to do so.

Why the emphasis on competitive procurement? Because the evidence is overwhelming that the simplest means of saving billions of dollars each year is to switch from sole-source methods of procurement to competitive methods. As documented in numerous studies by SBA and GAO and the services themselves, on the average nearly one-half is saved when these contracts are competed as compared to sole-source procurements.

The studies also show that competition results in materially shorter lead time when contracts are competed. This is particularly important during a period when the Air Force is cannibalizing some of the most sophisticated jet aircraft to keep other planes flying.

The services and many of the contractors claim that much of the data is proprietary. We do not argue with that. We do believe, however, that the services have no basis to make that claim. Based on our experience, they rarely, if ever, check claims of proprietary data. We believe that legitimate proprietary data should be respected and the rights to that data should be respected. We have no problem with that whatsoever, but DOD—and we have been to the buying activities—they don't check.

There are a lot of cases where there can be legitimate differences of opinion, and those differences should be resolved. However, service branches claim constantly that they do not have the manpower.

The numbers that we heard this morning from Mr. Gordon suggested that this is really a small part of the data problem. I am not so sure we would agree, and we are not so sure the numbers are right. I will give you a reason why.

We, along with a number of members from our local chapter in Oklahoma City, were invited by Air Force Secretary Orr to visit Tinker Air Force Base, and that is a very large procuring activity, as I am sure you know. One of the principal reasons that parts were not procured competitively was because the technical data was proprietary, or claimed to be proprietary. They also said they very rarely challenged these claims of proprietary data because they do not have the technical manpower to check and confirm the contractor's assertions.

I am not sure of their numbers, and I do have some notes from that visit which I will supply to you, but, as I recall, the percentage that was sole source due to proprietary data claims was up around 30 or 40 percent. I will give you the complete information for the record.

Senator **Nickles**. If you would supply that for the record, we would appreciate that.

[Subsequent information was received and follows:]

NATIONAL TOOLING &
MACHINING ASSOCIATION

9300 LIVINGSTON ROAD, FT. WASHINGTON, MD 20744 301/248-6200

April 13, 1984

The Honorable Don Nickles
United States Senate
649 Senate Dirksen Office
Building
Washington, DC 20510

Dear Senator Nickles:

Thanks very much for the opportunity to testify before the Small Business Committee on S. 1730 and S. 2489 on April 12. As promised, we will get back to you in the near future with our response to modifications suggested for Sections 5 and 6. We appreciate the concern of prime contractors that legitimate proprietary data rights be respected and that trade secrets be protected. We do not believe either will be jeopardized by S. 2489. Examples of trade secrets which have been divulged by the federal government have, in all the cases we are aware of, been cases where bureaucrats have mistakenly, if not illegally, divulged such information in violation of current statutory and/or regulatory protections. While these incidents are abhorrent and unfair to prime contractors, additional legislation will not prevent their repetition. What is necessary is improved management controls and perhaps simplification of remedy procedures, and/or better remedies for companies thus injured.

I did want to get back to you on the point made by DOD Assistant Secretary Harvey Gordon at the hearing regarding the fact that only 1,450 parts in DOD's 3.9 million spare parts inventory are ones on qualified products lists authorized under Defense Acquisition Regulation Section I, Part II. What he failed to mention is that a much greater number of those 3.9 million parts require bidder or product prequalification under Defense Acquisition Regulation Supplement #6. We request that you ask the Department of Defense to provide you the number of parts requiring bidder or product prequalification under DAR Supplement #6.

When we visited Tinker Air Force Base at the invitation of Air Force Secretary Verne Orr last summer, we were informed that 11% of the sole source items, or 4,023 items representing 28% or $336,000,000 of the base's annual $1.2 billion spare parts procurements, resulted from restrictive bidder and/or product prequalification. (See enclosed item breakout status prepared by Tinker Air Force Base personnel and our letter to Secretary Orr.)

We were also surprised to learn during a tour of the facility that spare parts manufacturing activities are a major function at Tinker Air Force Base (as opposed to repair), which is a violation of OMB Circular A-76. The Air Force has even delcared its intention to manufacture even more of these parts, ostensibly because prices charged by prime contractors are too high. At the same time, we have many fine companies in the tooling and machining industry in Oklahoma who could manufacture the same parts much more economically but who are prevented from doing so by the Air Force's use of restrictive bidder and product codes. We request that the four enclosed photographs, each with clear reference to the fact that these parts are "manufactured" in the general machining unit, tool and die unit, sheet metal manufacturing unit, and numerical control unit, be made a part of the hearing record.

The sad part is those same individuals making parts at Tinker Air Force Base could be making the same parts as employees of tooling and machining companies in the Oklahoma City and surrounding areas. We saw some of the most sophisticated CAD/CAM equipment standing idle during the middle of the work day, something you would never see at one of our members' shops. Despite the Air Force's claim that their operation is more efficient than private industry, we find it inconceivable that our members couldn't make them more economically, if not prevented from bidding competitively by restrictions imposed by the Air Force.

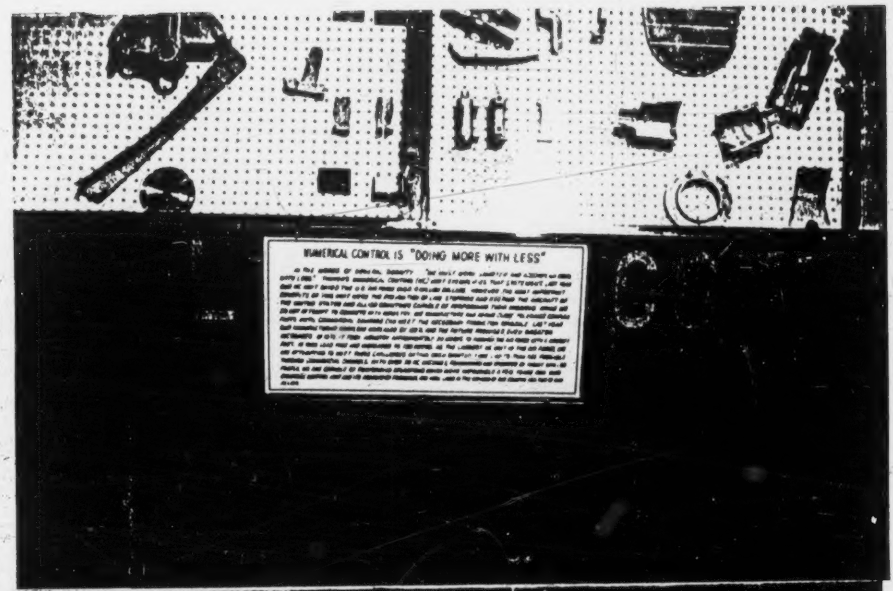
Thanks again for the opportunity to testify. We'll get back to you in the near future with our comments regarding Sections 5 and 6 of this legislation.

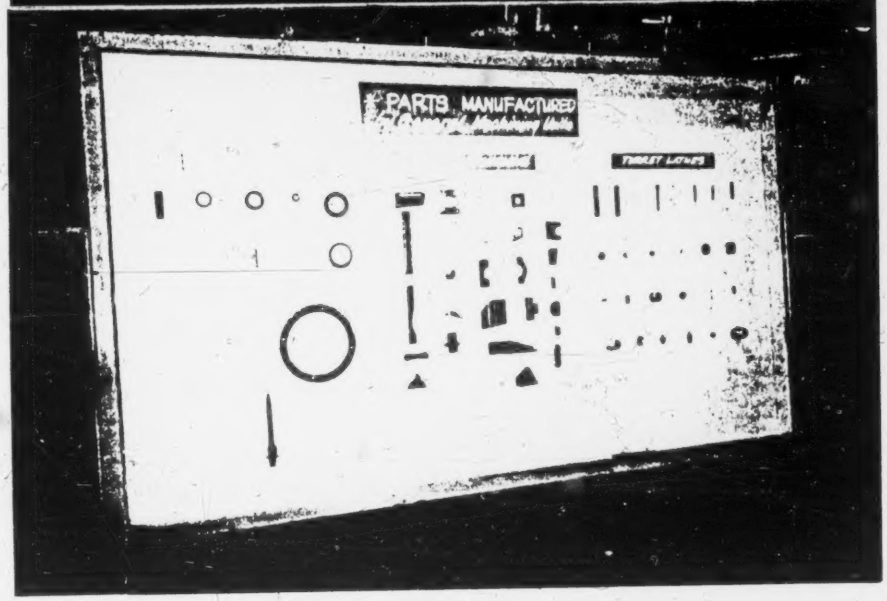
Cordially,

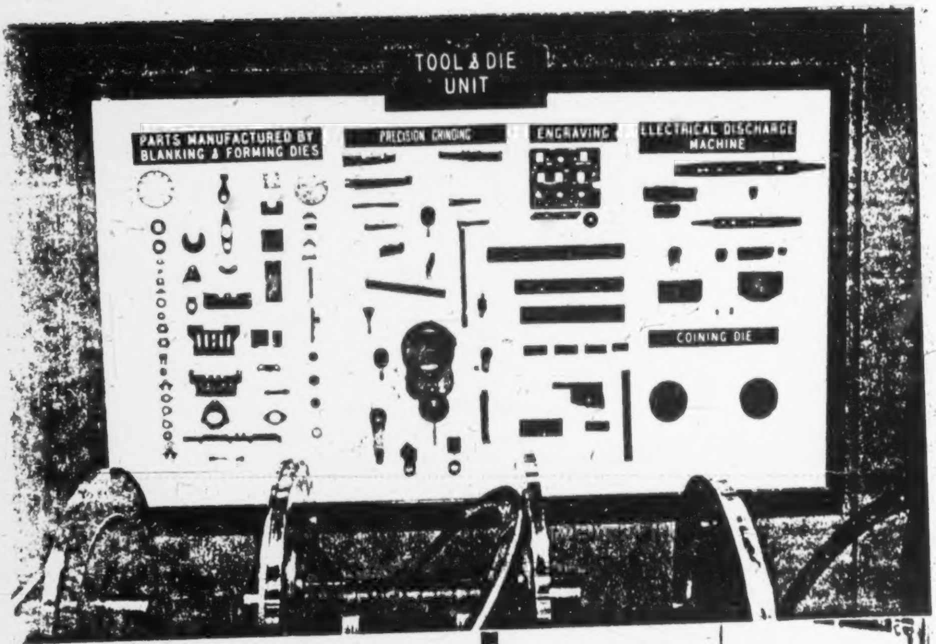
Bruce N Hahn

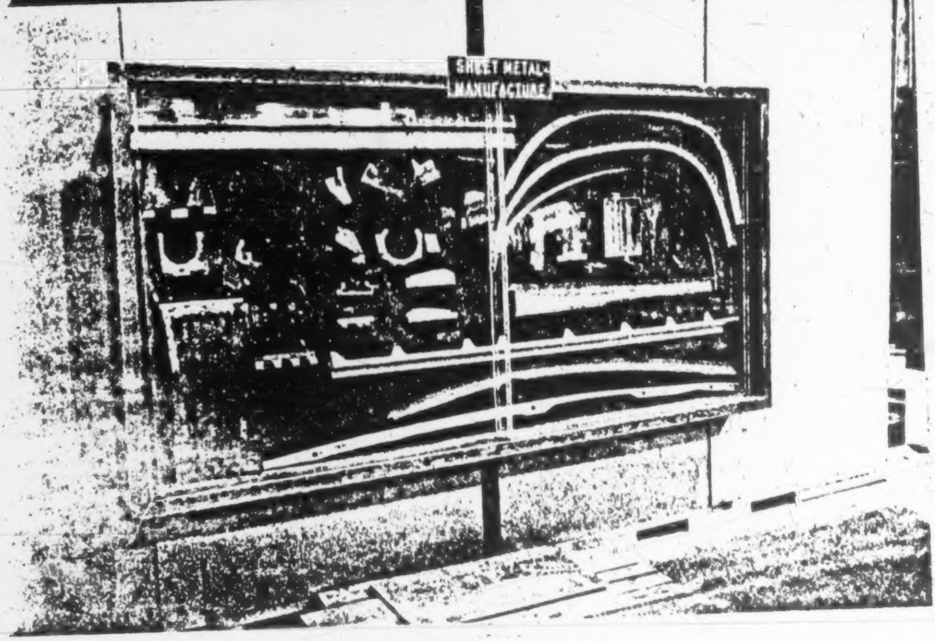
Bruce N. Hahn
Manager of Government Affairs

BNH:rgj
Enclosures
cc: The Honorable Caspar W. Weinberger, Secretary of Defense
 The Honorable David A. Stockman, Director,
  Office of Management & Budget
 The Honorable Verne Orr, Secretary of the Air Force
 The Honorable Charles A. Bowsher, Comptroller General,
  General Accounting Office
 The Honorable Harvey J. Gordon, Assistant Deputy Under
  Secretary for Acquisition, Department of Defense
 The Honorable Lowell P. Weicker, Chairman,
  Senate Small Business Committee
 The Honorable John Tower, Chairman,
  Senate Armed Services Committee
 The Honorable William V. Roth, Jr., Chairman,
  Senate Governmental Affairs Committee
 The Honorable Alan Dixon
 Mr. Ladd Adams, President, NTMA Central Oklahoma Chapter


NUMERICAL CONTROL IS "DOING MORE WITH LESS"


PARTS MANUFACTURED
TURRET LATHES


TOOL & DIE UNIT
PARTS MANUFACTURED BY BLANKING & FORMING DIES
PRECISION GRINDING
ENGRAVING
ELECTRICAL DISCHARGE MACHINE
COINING DIE


SHEET METAL MANUFACTURE

FILE: Tinker Air Force Base Visit
(Procurement)

NATIONAL TOOLING &
MACHINING ASSOCIATION

NATIONAL TOOLING & MACHINING ASSOCIATION
Precision

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August 30, 1983

The Honorable Verne Orr
Secretary of the Air Force
Room 4E874
The Pentagon
Washington, DC 20330

Dear Secretary Orr:

Thank you again for inviting members of my staff to visit Tinker Air Force Base to discuss ways of breaking out spare parts. They found the visit to be quite informative and hope that the interchange was helpful to the Air Force also.

Based on the meeting, we have come up with the following findings and recommendations dealing with the problem of non-competitive spare parts procurements.

FINDINGS

1. Only 10% of the dollar value of spare parts and 20% of the number of spare parts procured at Tinker Air Force Base are procured competitively.

2. Despite directives from the Secretary of Defense to increase competition to 30% this year and 40% next year, the amounts procured competitively at Tinker will remain about the same. This is because of existing procurement regulations, lack of data, or the proprietary nature of data. You should be aware that this was the unanimous conclusion of procurement personnel with whom our people met. You will not get more competition unless you change the present regulations.

3. The present breakout program focuses on getting subcontractors and former subcontractors to bid against the primes. Subcontractors are afraid to do so because of the fear of having their subcontracts cut off. This is a reasonable fear as evidenced by threatening letters from prime contractors.

4. Thousands of other small businesses have the capability to make the parts, but are not permitted to do so under the present system.

5. Items which are non-competitive because no technical data is available are often the result of the government purchasing a system without the data in order to save money. The result is not savings but higher total costs and public outrage over the prices paid for spare parts.

6. Government should not have to pay more for original systems to obtain data. OEMs have to generate the data to manufacture the system anyway. The only additional cost is the cost of copying.

7. The responsibility for determining if the government receives data is with the Air Force Systems Command (AFSC). The Air Force Logistics Command (AFLC) must honor contractor proprietary legends unless something blatant occurs, such as a change from unrestricted to proprietary on a modification. There have been several instances of blatant false claims of confidentiality. There is no record of legal action by attorneys for the Air Force or the Justice Department despite the fact that such actions are violations of the False Claims Act.

8. Oklahoma City Air Logistics Center is often unable to determine rights in data needed for competitive procurement because the contracts setting forth the data rights have been destroyed. The primes have refused to provide the Air Force with copies. Legal means are available which could be used by the Air Force to procure the contracts from the primes.

9. The Air Force Competition Advocate program at Tinker has resulted in savings to the government of 16 times the amount expended for the program. However, Tinker Air Force personnel are afraid to request more slots for the program because they fear Congress will take the funds from another part of their budget.

10. In order to bid on restrictively coded items, firms presently have to prequalify on a part-by-part basis. In practice, this means either making a sample or providing evidence that they have made it as a subcontractor. This is costly, restrictive, and contrary to industry practice. Even those companies who make critical spare parts as subcontractors are not required to produce a sample prior to being considered as vendors.

11. It is almost impossible for a small business to compete for spare parts other than those coded "G" unless they have made the part for a prime before.

12. Eleven percent of the non-competitive procurements are non-competitive although technical data is available because OC/ALC engineers deem such parts as critical. These parts are coded "C." Twenty-four percent of non-competitive buys are made because no technical data is available. These parts are coded "D." Twelve percent of the non-competitive procurements are made because technical data is inadequate or incomplete. These parts are coded "H." Twenty-nine percent are made because the original equipment manufacturer alleges that the data involved is proprietary. These parts are coded "P." Twenty-four percent, or all the rest of the non-competitive procurements, are made for miscellaneous reasons such as the need for Class 1 A castings (Code "K"), the need for master tooling (Code "M"), or the need for special test equipment (Code "N").

13. Contractor-recommended codes permitting original equipment manufacturers to recommend the procurement method are no longer used at Tinker. Biased recommendations of the OEMs were found to be useless. However, they are still used at other Air Force bases.

RECOMMENDATIONS

1. Do away with qualification procedures and let everyone bid. Qualification is a waste of both government and private resources because large sums are spent to qualify firms for items that may never be solicited and even if solicited, for which such firms may never be in line for an award. Furthermore, the qualification requirements discourage competition. A small business will not spend substantial sums to qualify to produce an item that may never be bought or, if bought, may not be awarded to them. Qualification also provides no assurance of quality. The fact that a hand-made prototype works does not mean that a mass produced version will. The best means of quality control is the application of accepted quality control techniques. These techniques, which are not presently utilized effectively, include sampling; measuring and testing; and rejecting any products not up to snuff.

2. If qualification procedures are retained, qualification should be done on a generic rather than a part-by-part basis. If a contractor is capable of making a particular part, he also should be capable of making related parts. Furthermore, as previously discussed, contractors are very much afraid of competing against their primes. Although a subcontractor of prime A would be afraid of competing against prime A for such part, he would not be afraid of making a similar part under a prime B system.

3. The government should always purchase all data, including level 3 technical data, as well as special tooling and test equipment for major weapons systems. This should be a clause in every procurement contract without exception. Total costs for the life of a system should be less in every conceivable case. OEMs should be required to supply the names of subcontractors by part number as part of the original contract. Proprietary data should be purchased, with reasonable compensation, on a limited basis for reprocurements for that system only.

4. The Air Force must become much more aggressive in asserting its rights in data. Prime contractors should be required to document rights in data. Spurious claims of business confidentiality should be prosecuted under the False Claims Act and the False Statements Act. If a contract under which data rights are determined has been destroyed, the Air Force should attempt to obtain a copy from the prime. If a prime refuses, the Air Force should bring suit to determine rights in data and obtain a copy of the contract from the prime using discovery procedures. The prime would then be required by law to provide such contract if it still exists. If the contract exists, the government can use it to determine rights in data. If the prime claims that it does not exist, they have no basis for their claim of business confidentiality.

5. Where contractor-recommended codes (under revised AFR 57-6 contractor technical information codes) are solicited from the prime, the Air Force should contract for independent engineering advice to verify the prime's recommendations. This is necessary because of the prime's interest in perpetuating its sole source status. NTMA would be willing to provide such a service.

6. Additional slots should be added to the Competition Advocate program.

We hope that you will find the above to be both informative and constructive. We look forward to working with you in the future toward achieving our common objective of eliminating costly, non-competitive procurements.

Most cordially,

WE Hardman

William E. Hardman
Executive Vice President

WEH:dk

ITEM BREAKOUT STATUS

116,763 ITEMS MANAGED

SCREENED — 61,824   COMPETITIVE — 26,094   SOLE SOURCE — 35,730

REASON FOR SOLE SOURCE

	TOTAL ITEMS	ITEMS PERCENT	DOLLARS PERCENT	TOTAL DOLLARS
OC-ALC DECISION	4,023	11	28	336 M
NO DATA	8,664	24	13	156 M
INCOMPLETE DATA	4,109	12	4	48 M
PROPRIETARY	10,491	29	27	324 M
MISC	8,443	24	28	336 M
	35,730	100	100	$1,200 M

Senator NICKLES. We are going to have to adhere to the 5-minute limit, so I can let our other panelists present testimony. Also, we have some legislation on the floor in which I am involved, and I have to get over there.

Mr. HAHN. I also want to correct one other misconception. Assistant Secretary Gordon mentioned this morning that 1,450 of the spare parts in the 3.9 million parts inventory are on the Qualified Products List [QPL]. He was referring to the number of QPL lists authorized under DAR, section 1, part 2. There is also a DAR Supplement, No. 6. Under its procedures only 275,000 of the 3.9 million parts are coded for procurement through open competition. Under DAR Supplement No. 6, another 322,000 parts require some form of bidder and/or product prequalification in addition to the 172,000 parts covered by QPL's. Almost 2,120,000 parts are below the breakout screening threshold established by DAR Supplement No. 6. I think he was extremely misleading in presenting you this information this morning.

Our experience has been, and we have been working on this problem for over 3 years—we have now worked along and built a coalition of over 190 small business associations—the problem is resistance to change, resistance to open competition by the Department of Defense.

This legislation, if anything, needs to be strengthened. It needs strong language to replace what I would refer to as weasel words. The Department of Defense procurement bureaucrats have excelled at weaseling out of directives from the U.S. Congress which are intended to lead to more competition. I will give you one example.

Congress established a certificate of competency process. Because they were concerned about the lack of competition, they set up within what is now SBA this process whereby if you thought you were not getting a fair shake and you were low bidder and yet were disqualified, you could have a second opinion

What did the Department of Defense do? It came up with a qualified parts list and a qualified bidders list—catch-22. If you are not on this list, you obviously could not make the part, so you are not entitled to a certificate of competency review.

We have had members who were making parts, the most critical parts, as subcontractors, who were told:

> I'm sorry, we can't review. We cannot give a certificate of competency review to your company because you're not qualified to make the part that you're making.

We suggest that you go through the legislation and get rid of the weasel words. Use strong directives.

We suggest, also—and we have some suggestions attached, several other sections, that will improve it still further. Thank you.

[The prepared statement of Mr. Hahn follows:]

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REMARKS BY

BRUCE N. HAHN, MANAGER OF GOVERNMENT AFFAIRS

NATIONAL TOOLING & MACHINING ASSOCIATION

BEFORE THE

COMMITTEE ON SMALL BUSINESS

UNITED STATES SENATE

April 12, 1984

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

MY NAME IS BRUCE N. HAHN AND I AM MANAGER OF GOVERNMENT AFFAIRS WITH THE NATIONAL TOOLING & MACHINING ASSOCIATION. WITH ME IS PAUL J. SEIDMAN, SPECIAL COUNSEL TO THE ASSOCIATION. WE VERY MUCH APPRECIATE THE OPPORTUNITY TO APPEAR HERE TODAY AND TO PROVIDE OUR INPUT AS THE COMMITTEE REVIEWS LEGISLATION DESIGNED TO IMPROVE FEDERAL GOVERNMENT PROCUREMENT PRACTICES AND TO RECTIFY LONG TERM ABUSES IN SPARE PARTS PROCUREMENTS BY THE DEPARTMENT OF DEFENSE.

WE ARE MOST GRATEFUL TO SENATOR DIXON AND THE COSPONSORS OF S. 1730 FOR THEIR INITIAL EFFORTS IN THIS AREA AND WE ARE EQUALLY GRATEFUL TO SENATORS WEICKER AND DIXON FOR THEIR WORK ON THE "SECOND GENERATION" OF PROCUREMENT REFORM LEGISLATION, S. 2489.

OUR COMMENTS WITH RESPECT TO THIS LEGISLATION RELATE TO ITS EFFECT ON THE PROCUREMENT OF MILITARY SPARE PARTS, ALL OF WHICH HAVE BEEN OR COULD BE MANUFACTURED BY MEMBERS OF THE NATIONAL TOOLING & MACHINING ASSOCIATION.

THE STATE OF MILITARY SPARE PARTS PROCUREMENT IS A NATIONAL DISGRACE AND A MONUMENT TO THE INCOMPETENCE AND IRRESPONSIBILITY OF PROCUREMENT POLICY MAKERS IN THE DEPARTMENT OF DEFENSE. TO PARAPHRASE A FAMOUS QUOTE, "NEVER HAVE SO FEW WASTED SO MUCH WITH SUCH CONTEMPT FOR SO MANY."

LET ME MAKE IT CLEAR THAT WE ARE NOT REFERRING TO SENIOR APPOINTED OFFICIALS IN PRESENT NOR IN PREVIOUS ADMINISTRATIONS. LIKE YOURSELVES, THESE INDIVIDUALS MUST RELY ON COMPETENT AND SINCERE STAFF SUPPORT TO ADDRESS THE COMPLEX ISSUES IN PROCUREMENT. IF THOSE INDIVIDUALS DISPLAYED THE SINCERITY AND DEDICATION OF BOTH THE MAJORITY AND MINORITY STAFF OF THIS COMMITTEE, WE WOULD NOT HAVE A PROBLEM IN SPARE PARTS PROCUREMENT. INSTEAD, PROCUREMENT POLICY IS NOT TRULY DETERMINED BY SECRETARY WEINBERGER, NOR BY THE HEADS OF THE SERVICE BRANCHES, ALL OF WHOM ARE DEDICATED AND SINCERE INDIVIDUALS, BUT RATHER BY NAMELESS AND FACELESS BUREAUCRATS WHO HIDE IN THE BOWELS OF THE PENTAGON. AS FAR AS WE CAN DETERMINE, THESE INDIVIDUALS VIEW THE CURRENT PROCUREMENT HORRORS AS A PUBLIC RELATIONS PROBLEM AND THEIR EFFORTS HAVE BEEN DIRECTED AT PROVIDING THEIR SUPERIORS WITH PROPOSALS THAT WILL SOUND AS GOOD AS POSSIBLE TO THE PUBLIC WHILE REQUIRING AS FEW CHANGES AS POSSIBLE IN CURRENT PROCUREMENT METHODS.

WE WOULD ALSO LIKE TO MAKE IT CLEAR THAT THIS PROBLEM IS IN NO WAY THE FAULT OF EITHER LARGE OR SMALL PRIME CONTRACTORS. MOST LARGE PRIME CONTRACTORS HAVE EXCELLENT RECORDS OF SUBCONTRACTING TO SMALL BUSINESSES, MANY OF THEM OUR MEMBERS. THE PRIME CONTRACTORS DON'T MAKE PROCUREMENT POLICY, A HANDFUL OF PENTAGON PROCUREMENT EXECUTIVES MAKE THAT POLICY. THE HORROR STORIES OF $9,600 ALLEN WRENCHES, $7,400 PIECES OF WIRE, $2,000 NUTS, $1,000 BOLTS, AND $1,000 SCREWS FOR THE MOST PART ARE NOT

STORIES ABOUT PRIME CONTRACTORS BREAKING REGULATIONS. RATHER, THEY ARE STORIES ABOUT COMPANIES ADHERING TO THE MOST ABSURD SET OF REGULATIONS EVER CONCOCTED BY A GOVERNMENT AGENCY.

LET ME PUT THIS PROBLEM INTO PERSPECTIVE. THE DEPARTMENT OF DEFENSE SPENDS OVER $13 BILLION EACH YEAR ON SPARE PARTS PROCUREMENTS. LESS THAN 10% OF THAT AMOUNT IS SPENT ON PARTS PROCURED THROUGH OPEN COMPETITION. MOST OF THE REMAINING $11.7 BILLION EACH YEAR GOES TO SOLE SOURCE PROCUREMENTS. WE CANNOT THINK OF A MORE TELLING PIECE OF EVIDENCE TO DOCUMENT OUR BELIEF THAT THOSE PROCUREMENT EXECUTIVES IN THE PENTAGON DO NOT WANT TO BUY COMPETITIVELY AND WILL NOT DO SO UNLESS FORCED TO DO SO. THEY ARE NOT GOING TO PROVIDE THEIR SUPERIORS WITH POLICY CHANGES THAT WILL IMPROVE THE SITUATION AND THEY ARE NOT GOING TO RESPOND TO ANY LEGISLATION UNLESS IT HAS TEETH. NOBLE STATEMENTS, LOFTY GOALS, ETC., WILL BE IGNORED OR CIRCUMVENTED. THEY MUST BE MADE TO TAKE SPECIFIC ACTIONS THAT WILL RESULT IN COMPETITIVE PROCUREMENTS.

WHY THE EMPHASIS ON COMPETITIVE PROCUREMENTS? BECAUSE THE EVIDENCE IS OVERWHELMING THAT THE SIMPLEST MEANS OF SAVING BILLIONS OF DOLLARS EACH YEAR IS TO SWITCH FROM SOLE SOURCE METHODS OF PROCUREMENT TO COMPETITIVE METHODS. AS DOCUMENTED IN NUMEROUS STUDIES CONDUCTED BY SBA, GAO, AND THE SERVICES THEMSELVES, ON THE AVERAGE NEARLY ONE-HALF IS SAVED WHEN THESE CONTRACTS ARE COMPETED. THE STUDIES ALSO SHOW THAT COMPETITION RESULTS IN MATERIALLY SHORTER LEAD TIMES WHEN CONTRACTS ARE

COMPETED. THIS IS PARTICULARLY IMPORTANT DURING A PERIOD WHEN THE AIR FORCE IS CANNIBALIZING SOME OF OUR MOST SOPHISTICATED JET AIRCRAFT TO KEEP OTHER PLANES FLYING.

OF COURSE, THE DEPARTMENT OF DEFENSE DEFENDS ITS PROCUREMENT PRACTICES. THE SERVICES CLAIM THAT MUCH OF THE DATA IS PROPRIETARY. WE DON'T THINK THE SERVICES CAN MAKE ANY CLAIMS ABOUT WHICH DATA IS PROPRIETARY BECAUSE THEY RARELY EXAMINE DATA CLAIMED TO BE PROPRIETARY TO VERIFY IF IT ACTUALLY IS PROPRIETARY. NO DOUBT THERE IS SOME PROPRIETARY DATA AND NO DOUBT THERE CAN BE LEGITIMATE DIFFERENCES OF OPINION AS TO WHEN AND WHETHER A PIECE OF DATA IS PROPRIETARY. IF YOU LOOK AT THE POSSIBLE COMMERCIAL APPLICATIONS OF MANY OF THE MORE SOPHISTICATED WEAPONS SYSTEMS, IT IS CLEAR THAT THERE ARE NOT TOO MANY. IT'S HIGHLY UNLIKELY THAT MANY OF THOSE PARTS WOULD HAVE BEEN DEVELOPED WITHOUT ANY GOVERNMENT FINANCING. ONCE AN ITEM IS DECLARED PROPRIETARY, IT WILL ALMOST NEVER BE PROCURED COMPETITIVELY. THE DEPARTMENT OF DEFENSE MUST BE FORCED TO REVIEW ALL CLAIMS OF PROPRIETARY DATA AND DETERMINE WHETHER THE CLAIM IS VALID. THEY MUST BE FORCED TO CEASE IMMEDIATELY CEDING GOVERNMENT OWNED DATA BACK TO CONTRACTORS BECAUSE IT WOULD SUPPOSEDLY LOWER THE INITIAL ACQUISITION COSTS OF A SYSTEM. ALL THAT THIS PRACTICE ACHIEVES IS TO INSURE THAT THE FRONT END PRICE IS NOTHING MORE THAN A DOWN PAYMENT ON A SYSTEM WHILE THE SUPPORT COST DURING ITS LIFESPAN IS OUT OF CONTROL.

ANOTHER DOD INNOVATION THAT DESERVES DISMANTLING IS THEIR QUALIFIED PRODUCTS LISTS AND QUALIFIED BIDDERS LISTS. THESE LISTS, OSTENSIBLY MAINTAINED TO INSURE QUALITY IN CRITICAL PARTS, HAVE EVOLVED TO THE POINT WHERE THEIR MAIN FUNCTION IS TO PREVENT COMPETITIVE PROCUREMENTS. IN A FEBRUARY 2, 1984 BRIEFING TO HOUSE OF REPRESENTATIVES STAFF, DOD ASSISTANT SECRETARY HARVEY GORDON CLAIMED THAT LEGISLATION CONCERNING PREQUALIFICATION IS UNNECESSARY SINCE ONLY 1,450 OF THE SPARE PARTS IN DOD'S 3.9 MILLION PART INVENTORY ARE ON QUALIFIED PRODUCTS LISTS. SUCH STATISTICS ARE GROSSLY MISLEADING BECAUSE DOD IS ONLY REFERRING TO QUALIFIED PRODUCTS LISTS AUTHORIZED UNDER DEFENSE ACQUISITION REGULATION (DAR) SECTION I, PART II. OF GREATER SIGNIFICANCE ARE THE PARTS REQUIRING BIDDER AND/OR PRODUCT PREQUALIFICATION UNDER DAR SUPPLEMENT NO. 6 ON SPARE PARTS. OF THE 3.9 MILLION PARTS IN DOD'S SPARE PARTS INVENTORY, ONLY 7%, OR APPROXIMATELY 275,000, ARE PROCURED THROUGH OPEN COMPETITION. MOST OF THE REMAINING 93%, OR APPROXIMATELY 3,625,000 PARTS, REQUIRE BIDDER AND/OR PRODUCT PREQUALIFICATION UNDER DAR SUPPLEMENT NO. 6 BEFORE A NEW SOURCE'S BID WILL BE CONSIDERED. FURTHERMORE, UNLIKE DAR SECTION I, PART II, NO OBJECTIVE STANDARDS ARE REQUIRED FOR PREQUALIFICATION. THIS PERMITS DEFENSE BUREAUCRATS, WHO ARE PRONE TO UNDERESTIMATE THE CAPABILITIES OF SMALL BUSINESS CONCERNS, TO REFUSE TO PURCHASE PRODUCTS BECAUSE OF SUBJECTIVE OPINIONS WHICH CANNOT BE REFUTED BY WOULD-BE BIDDERS.

AMONG SOME OF THE MANY THOUSANDS OF CRITICAL ITEMS ON THESE CRITICAL PARTS LISTS ARE FLOOR WAX, AUTOMOTIVE GREASE, FILING CABINETS, LOUDSPEAKERS FOR SHIPBOARD ENTERTAINMENT SYSTEMS, HOUSEHOLD LIGHTBULBS (A BARGAIN AT ONLY $44 EACH), LAMINATED WOODEN BOAT PADDLES, AND SPARK PLUGS.

PREQUALIFICATION IS ALSO USED AS A MEANS TO DEPRIVE SMALL BUSINESS CONCERNS OF THEIR STATUTORY RIGHT TO HAVE SBA MAKE THE FINAL DETERMINATION OF THEIR CAPABILITY TO PERFORM UNDER ITS CERTIFICATE OF COMPETENCY PROGRAM. UNDER THIS PROGRAM, SBA MAKES THE FINAL DETERMINATION OF A SMALL BUSINESS' CAPABILITY TO PERFORM A CONTRACT ON WHICH IT SUBMITTED THE LOW BID WHEN CONTRACTING OFFICIALS REFUSE TO AWARD BECAUSE OF ALLEGED LACK OF CAPABILITY. PREQUALIFICATION SIDESTEPS THE CERTIFICATE OF COMPETENCY PROCESS BECAUSE A SMALL BUSINESS CANNOT BE THE LOW BIDDER AND IN LINE FOR A CERTIFICATE OF COMPETENCY REVIEW IF THEY ARE PRECLUDED FROM BIDDING BY PREQUALIFICATION REQUIREMENTS.

CERTIFICATE OF COMPETENCY LEGISLATION RESULTED FROM THE STRATEGIC PROBLEMS CAUSED BY THE SYSTEMATIC EXCLUSION OF SMALL BUSINESS CONCERNS FROM THE PROCUREMENT PROCESS DURING WORLD WAR II. JUST AS TODAY, CONTRACTING OFFICIALS WOULD REFUSE TO DEAL WITH SMALL BUSINESSES OFFERING LOWER PRICES AND SHORTER LEAD TIMES BECAUSE THEY WERE "UNQUALIFIED." THE "UNQUALIFIED" SMALL BUSINESSES WOULD LATER PERFORM THE SAME REQUIREMENT AS A SUBCONTRACTOR TO A "QUALIFIED" LARGE BUSINESS AWARDED THE

CONTRACT. JUST AS TODAY, THE LARGE BUSINESS BROKER WOULD BE SUBSTANTIALLY COMPENSATED FOR ITS "SERVICES."

THE WAY ITEMS GET ON THESE LISTS IS INTERESTING. THE DEFENSE DEPARTMENT ASKS THE PRIME CONTRACTOR WHETHER OR NOT THE ITEM SHOULD BE PROCURED COMPETITIVELY OR WHETHER IT IS OF SUCH A CRITICAL NATURE THAT PREQUALIFICATION SHOULD BE REQUIRED. AFTER ALL, THE LIVES OF AMERICAN SERVICEMEN ARE AT STAKE. SOMEHOW, IT NEVER OCCURRED TO THE PROCUREMENT BUREAUCRATS THAT THIS PROCEDURE MIGHT CREATE TEMPTATION SO GREAT AS TO CHALLENGE A SAINT, MUCH LESS A MERE MORTAL. WE THINK DOD SHOULD BE FORCED TO CONTRACT WITH QUALIFIED INDEPENDENT CONSULTANTS TO MAKE THESE DETERMINATIONS SINCE THEIR BUREAUCRATS OBVIOUSLY ARE NOT UP TO THE TASK THEMSELVES.

NTMA RECOMMENDS ELIMINATING THESE LISTS ENTIRELY. OR AT THE MINIMUM ELIMINATING THEM AS A DEVICE FOR THE SERVICES TO AVOID THE CERTIFICATE OF COMPETENCY PROCESS. AFTER ALL, THEY REALLY HAVE VERY LITTLE TO DO WITH QUALITY CONTROL. QUALITY CONTROL, AS IT'S PRACTICED IN THIS COUNTRY AND EVERY OTHER COUNTRY IN THE WORLD, IS A SCIENTIFIC PROCESS.

RECOGNIZED IN A 1968 STUDY ON QUALIFIED PRODUCTS LISTS, TRUE QUALITY CONTROL CANNOT BE ACHIEVED THROUGH PREQUALIFICATION, BUT ONLY THROUGH RECOGNIZED QUALITY CONTROL TECHNIQUES SUCH AS MANAGEMENT, REGULAR INSTRUMENT CALIBRATION, GOOD SPECIFICATIONS, AND TESTING. MORE SPECIFICALLY, THE DOD STUDY STATES AS FOLLOWS:

> ON MANY SPECIFICATIONS, THE SERVICES MAINTAIN THAT THEY NEED ASSURANCE OF QUALITY PRIOR TO CONTRACT AWARD SO AS TO GUARANTEE SAFETY IN FLIGHT. WHAT GUARANTEE IS INHERENT IN A PRODUCT THAT HAS BEEN PRODUCED ONE TIME BY A GIVEN MANUFACTURER? DOES IN FACT, THIS ONE TIME MANUFACTURE, SOMETIMES HAND-MADE, ASSURE QUALITY IN PRODUCTION? OBVIOUSLY NOT. QUALITY IS CONTROLLED ONLY BY APPROPRIATE MEASURES AND EXAMINATION TAKEN AND MADE DURING PRODUCTION AND IT IS THE GOOD SPECIFICATION THAT ASSURES THIS QUALITY THROUGH ITS REQUIREMENTS AND CONFORMANCE TESTING. THIS RATIONALE IS ALSO APPLICABLE TO LIFE SUPPORT EQUIPMENT AS WELL AS ALL OTHERS WHERE POOR PRODUCTS ENDANGER LIFE OF PERSONNEL.

THESE REAL QUALITY CONTROL TECHNIQUES ARE SET FORTH IN MILSPECS AND MILSTANDARDS WHICH ARE ALREADY MET BY MOST NATIONAL TOOLING AND MACHINING ASSOCIATION MEMBER COMPANIES DOING DOD WORK, ALBEIT AS SUBCONTRACTORS.

THE MORE CRITICAL A PART, THE TIGHTER THE SPECS AND THE MORE FREQUENT THE TESTING, UP TO 100% IF NECESSARY. OBVIOUSLY, PARTS NOT UP TO SNUFF SHOULD BE REJECTED. IF DOD WOULD USE SCIENTIFIC QUALITY CONTROL TECHNIQUES, THEY WOULDN'T NEED A

QUALIFIED ANYTHING LIST. IF SCIENTIFIC QUALITY CONTROL TECHNIQUES ARE USED, THEN THE QUALIFIED PARTS AND BIDDERS LISTS ARE REDUNDANT AND CAN ONLY SERVE TO REDUCE COMPETITION. IT'S AS SIMPLE AS THAT.

FINALLY, I'D LIKE TO DISCUSS DOD'S DATA STORAGE CAPABILITIES. MAYBE IT IS BETTER DESCRIBED AS DOD'S DATA STORAGE INCAPABILITIES. A GROUP OF NTMA MEMBERS AND STAFF WERE INVITED TO TINKER AIR FORCE BASE, REPUTEDLY ONE OF THEIR MORE EFFICIENT PROCUREMENT ACTIVITIES, LAST YEAR BY AIR FORCE SECRETARY VERNE ORR. A VERY LARGE PORTION OF THE SPARE PARTS PROCURED THERE FALL INTO ONE OF THESE FIVE CATEGORIES:

1. WE HAVE THE DATA BUT IT'S BEEN REPRODUCED SO MANY TIMES THAT IT HAS BECOME ILLEGIBLE SO WE HAVE TO BUY SOLE SOURCE.

2. WE DON'T HAVE THE DATA AND WE DON'T KNOW WHERE IT IS SO WE HAVE TO BUY SOLE SOURCE.

3. WE HAVE THE DATA AND IT IS COMPLETE, BUT WE DON'T KNOW WHETHER IT'S PROPRIETARY BECAUSE WE DESTROYED THE ORIGINAL CONTRACT WHICH TELLS US WHICH DATA WE OWN SO WE HAVE TO BUY IT SOLE SOURCE.

4. WE HAVE PART OF THE DATA AND IT'S LEGIBLE. IF WE CAN EVER FIND THE MISSING PAGES, MAYBE WE CAN STOP BUYING SOLE SOURCE.

5. THE DATA IS MARKED PROPRIETARY AND SINCE WE DO NOT HAVE THE QUALIFIED PERSONNEL TO REVIEW PROPRIETARY CLAIMS, WE ASSUME THAT IT MUST BE PROPRIETARY SO WE HAVE TO BUY THE PART SOLE SOURCE.

GENTLEMEN, IT IS WIDELY RECOGNIZED THAT THE DEPARTMENT OF DEFENSE IS PREDISPOSED TOWARDS THE PURCHASE OF MAJOR SYSTEMS WITH THE STATE OF THE ART IN SCIENTIFIC WHISTLES AND BELLS. PROCUREMENT BUREAUCRATS PROBABLY RANK PUTTING THEIR SPARE PARTS DATA STORAGE AND RETRIEVAL SYSTEM IN ORDER SOMEWHERE AROUND 187TH ON THEIR LIST OF TOP PRIORITIES. AFTER ALL, WE'RE ONLY TALKING $6-7 BILLION A YEAR IN GROSS SAVINGS, EVEN LESS ONCE YOU DEDUCT THE MILLIONS OF DOLLARS IT WOULD COST TO DEVELOP SUCH A SYSTEM. THE $5-6 BILLION THAT WOULD BE LEFT OVER WOULD HARDLY BE A DOWN PAYMENT ON A RESPECTABLE NUCLEAR CARRIER.

WE BELIEVE, AS DO 190 OTHER SMALL BUSINESS ASSOCIATIONS WHO CALL ON THIS COMMITTEE FOR ACTION, THAT $5-6 BILLION A YEAR IS WORTH SAVING. WE BELIEVE MORE COMPETITION WILL MEAN MORE OPPORTUNITIES FOR SMALL BUSINESS, WHICH PRESENTLY GETS ONLY A SMALL SLICE OF DOD'S PROCUREMENT EXPENDITURES, BOTH DIRECTLY AND INDIRECTLY. WE BELIEVE THAT LEGISLATION, STRONG LEGISLATION, IS

NEEDED TO ACHIEVE THIS. WE BELIEVE THAT S. 2488, THE SMALL BUSINESS COMPETITION ENHANCEMENT ACT OF 1984, CAN BE THAT VEHICLE. THIS BILL HAS BEEN THOUGHTFULLY CONSTRUCTED AND ADDRESSES MOST OF THE ISSUES.

HOWEVER, YOU NEED TO REMEMBER THE MIND SET OF PENTAGON BUREAUCRATS AT EVERY STEP. THOSE BUREAUCRATS DO NOT WANT TO PROCURE COMPETITIVELY AND WILL NEVER DO SO UNLESS FORCED. THEY HAVE EFFECTIVELY THWARTED MANY EFFORTS OF CONGRESS AND MANY PREVIOUS ADMINISTRATIONS TO PUSH THEM IN THAT DIRECTION. THEY WILL USE EVERY OPPORTUNITY TO "WEASEL" OUT OF LEGISLATIVE LANGUAGE THAT ALLOWS ANY ROOM FOR THEM TO DO SO.

WE, THEREFORE, SUGGEST THAT THIS LEGISLATION BE CAREFULLY REVIEWED DURING MARK-UP AND THAT ANY "WEASEL" WORDS BE REPLACED WITH LANGUAGE THAT LEAVES NO ROOM FOR INTERPRETATION. IF YOU DIRECT DOD BUREAUCRATS TO "CONSIDER" CERTAIN FACTORS, THEY WILL CONSIDER EVERYTHING AND DO NOTHING. IF YOU GIVE THEM "AUTHORITY" TO TAKE CERTAIN ACTIONS, THEY WILL CHOOSE NOT TO EXERCISE THAT AUTHORITY. YOU CAN COUNT ON THE FACT THAT ANY SECTION OF THE FINAL MEASURE THAT CONTAINS ANY ROOM FOR DISCRETION WILL BE INEFFECTUAL. YOU MIGHT AS WELL DROP THE PROVISION BECAUSE DOD PROCUREMENT PERSONNEL WILL DO NOTHING.

A LIST OF SPECIFIC RECOMMENDATIONS FOLLOWS. THANK YOU.

RECOMMENDATIONS

1. Enact a clarifying amendment to the Small Business Act that eliminates prequalification as an artifice to avoid the Certificate of Competency process and requires SBA to issue COCs for under $10,000 contracts.

S. 2489 is to be commended for requiring DOD to justify the use of prequalification, requiring that objective criteria be used for prequalification, and providing for the reimbursement of the cost of prequalifying.

NTMA suggests that it go one step further and eliminate prequalification systems such as that set forth in DAR Supplement No. 6 on Spare Parts as an artifice which deprives small businesses of their statutory right to have SBA make the final determination of their ability to perform under its Certificate of Competency Program. As previously noted, legislation giving small businesses this right was enacted because of the tendency of contracting officials to underestimate the capabilities of small business concerns and the resulting harm to the defense effort. This rationale is as pertinent today as when the Certificate of Competency legislation was originally passed. Congress should make it clear that DOD can no longer play games to avoid its mandate by passing a clarifying amendment to the Small Business Act.

To the surprise and consternation of the small business community, SBA issued a rule in 1982, without going through notice and comment proceedings, that allows procurng agencies to decide whether or not to refer non-capability determinations on under $10,000 to SBA for Certificate of Competency purposes. In an apparent attempt to sidestep the requirements of the Regulatory Flexibility Act, SBA claimed the rule had no impact on contracts. This is utterly preposterous. The most important impact of the COC program is not the COCs actually awarded, but the fact that it deters contracting officers from issuing baseless non-capability determinations because they will be reversed by the SBA. As a result of this rulemaking brainstorm by the supposed protector of small business, many contracting officers issue non-capability determinations to avoid dealing with firms they do not like, secure in the knowledge that their actions are not subject to meaningful review.

2. Enact a clarifying amendment to the Small Business Act making it clear that procurement rulemaking is subject to the Regulatory Flexibility Act.

Despite the massive impact of procurement rules on small business concerns, the contracting agencies do not comply with the procedures set forth in the small business Regulatory Flexibility Act. The act requires agencies to use special techniques to assure the participation of small business in the rulemaking process, such as: (1) publication of notice in publications read by small entities, and (2) a direct notification of effected parties. At present, DOD not only does not comply with the Regulatory Flexibility Act, but does not even publish notice of its rulemaking efforts in the Federal Register.

The Regulatory Flexibility Act also requires that notice of proposed rulemaking contain an initial regulatory flexibility analysis which sets forth:

- The reason for the proposed rule;
- Its objectives and legal basis;
- An estimate of the number and type of affected small businesses;
- A statement of anticipated compliance requirements;
- Identification of any Federal rules which it duplicates, overlays, or conflicts with; and
- A description of significant alternatives which accomplish the stated objectives and minimize the economic impact on small businesses.

Two recent rulemaking efforts relating to spare parts in which DOD ignored regulatory flexibility are the Defense Acquisition Regulation Supplement No. 6 on Spare Parts Acquisition and under Section 1217 of the FY 1984 Defense Authorization Act relating to access to data needed for competitive procurement. In the latter case even though the statute and legislation require DOD to give consideration to small business contractors' access to data, DOD has claimed that the rulemaking effort is exempt from the Regulatory Flexibility Act because it has no impact on small business. The ongoing rulemaking effort should be closely monitored by this committee because of its impact on small businesses' ability to compete for spare parts contracts.

Such procedural safeguards are badly needed, especially at DOD, and Congress should take the steps necessary to make sure that they are implemented.

3. Amend the Equal Access to Justice Act to allow small businesses to recover attorney's fees for successful GAO bid protests.

Non-competitive procurement practices are often challenged by small business concerns in the form of GAO bid protests. The protestants are performing a public service because non-competitive practices generally result in unnecessary government expenditures.

As a result of apparent legislative oversight, successful protestors may not be able to recover their attorney's fees under the Equal Access to Justice Act. Attorney's fees under the Equal Access to Justice Act are only recoverable where a small firm is successful in court litigation or administrative litigation subject to the Administrative Procedure Act. Bid protests fall into neither category. In light of the public service performed by successful protestants, they too should be allowed to recover their attorney's fees and the Equal Access to Justice Act should be so amended.

As previously discussed, it would also be desirable to give GAO the authority to compel timely agency responses and to enjoin awards.

Senator NICKLES. Thank you very much. I appreciate the suggestions that you made in your statement.

Mr. Engfer.

STATEMENT OF CHARLES W. ENGFER, TRUSTEE AND TREASURER, NATIONAL SMALL BUSINESS GOVERNMENT CONTRACTORS ASSOCIATION, FAIRFIELD, NJ

Mr. ENGFER. Mr. Chairman and members of the committee, good morning.

I am Charles Engfer, trustee and treasurer of the National Small Business Government Contractors Association, NSBGCA. On behalf of NSBGCA, I thank the committee for the opportunity to discuss with you today S. 2489 and S. 2434.

NSBGCA considers it vital that Congress act now to remove the barriers which prevent small businesses from participating in the Federal procurement process. We are pleased to see these two legislative proposals squarely addressing the problems that have been recognized as primary obstacles to competitive procurement.

Regarding S. 2489, I would like to address my comments to three specific areas covered therein.

Public posting of and access to solicitations: the first obstacle that a small business faces in trying to sell its products and services to the Federal Government is becoming aware of what the Government is buying. If the requirement is not publicly posted, the small business may not be aware of the pending procurement and, thus, is precluded from participating in the bidding process. NSBGCA, therefore, strongly supports the provision in S. 2489 which requires each Federal agency to publicly post any solicitation which would have been synopsized in the *Commerce Business Daily* if it had equaled or exceeded the applicable dollar threshold.

Additionally, it is also important that a small business be able to promptly obtain a complete solicitation either on its own or by means of a bidding service. This legislation also addresses that problem and provides necessary access to timely information about contracting opportunities.

Two, access to technical data: in order for a contractor like myself to bid, I need current, complete, and unrestricted technical data. Actually obtaining such data is made difficult because, although the Government owns the rights to much data, it fails to follow up to insure that, one, it actually receives the data; two, the data is complete and adequate; and, three, the data does not bear a legend improperly restricting its use.

S. 2489 requires that the agency include contract provisions which remedy these problems by specifying the technical data deliverable under the contract and a delivery thereof; establishing criteria for determining the acceptability of technical data to be delivered under the contract; and predetermining the rights in technical data as well as requiring the contractor to prepare and retain a justification for any restriction asserted.

S. 2489 also requires that the Government follow up on the all-important task of managing technical data. One key provision requires the development of a comprehensive plan for managing the vast amount of technical data already in the system and that which is yet to be received. This type of solution to the whole technical data problem is long overdue. It will serve to alleviate many situations where I am unable to submit an alternate proposal because the Government claims it does not have the technical data on hand to evaluate my offer.

A similar problem lies with the so-called revisions submitted by the original equipment manufacturers, or OEM's. The scenario plays out as follows: the Government contracts to buy an item of equipment. Included in that contract is the cost of the data and the rights to the data. The Government owns the rights and can procure subsequently required replacement parts on a competitive basis. However, somewhere along the line, the OEM submits a "revision" to this technical data previously furnished with unlimited rights. And, as some may have already guessed, the revision is submitted bearing a legend restricting the Government's right to use it.

In many cases, the change made to the data is insignificant, but OEM's have been successful in this regard because the earlier, unlimited data is discarded and replaced with the revised copy which bears the legend restricting its use. I have encountered several situations where I was pre-empted from the bidding process as a result of such a tactic. The following is one such example.

I have with me today two copies of a manufacturer's drawing for the same item.

Senator **Nickles**. We are going to submit your entire statement in the record, so you might just tell me what those are.

Mr. **Engfer**. OK. This interstage ring is a part fitted into a centrifugal pump used aboard naval vessels. One of these drawings is revision B, while the other is revision D. The latter, revision D, bears a note stating:

> This drawing has become the property of the U.S. Government and the restrictions noted on this drawing do not apply to uses by or for the U.S. Government.

In other words, the U.S. Government is free to allow prospective contractors the opportunity to bid for the manufacturing of the item shown on the print. Both of these drawings were obtained from Navy Ships Parts Control Center, SPCC, in Mechanicsburg, PA.

I have manufactured similar items for the Government in the past, but never this particular item. However, I estimate my current price for a quantity of 263 to be in the vicinity of $240 each. I chose the quantity of 263 for reasons you will be aware of shortly.

My third exhibit, which I submitted to you, is a copy of a page from the November 2, 1982, issue of the Commerce Business Daily, showing an award for the item in question to the OEM on a blanket ordering agreement for 263 pieces at a total contract price of $491,350, or $1,868.25 each. This exceeds my price per piece by $1,628.25 and amounts to a total overbuy of $428,229.75. The item was never advertised for procurement despite the fact that the Navy had previously purchased it from an alternate source who was a small business for $122 each.

The original reason for buying this item from the OEM was that SPCC, the buying activity, was not in possession of the latest revision of that drawing. NSBGCA contends that once a technical data package is owned by the Government, which exhibit 2 clearly shows, any later revision must be approved by the Government and then owned by the Government.

The provision of S. 2489 which requires a contractor to identify in advance of delivery technical data which is to be delivered with restrictions on the Government's rights should serve to prevent this type of situation from recurring.

The above example also illustrates the importance to the Government of seizing the opportunity to challenge data legends which restrict the Government's right to use such data for any purpose, including future competitive procurement.

Presently, procurement regulations permit the Government to challenge restrictions on data, with the result being a cancellation of the unsupported restriction. However, an improperly asserted limitation on the Government's right to use data can prove very costly to the Government if it is then forced to procure items without the benefit of competition. Conversely, a contractor who is successful in these tactics stands to benefit financially by enjoying sole-source status.

NSBGCA strongly favors the provisions of S. 2489 which provide for penalties in addition to cancellation of the restrictions, if a board of contract appeals or a court determines that the contractor's claim of proprietary rights is spurious. Perhaps these provisions will act as a necessary deterrent to such practices which have been costly to the Government and in reality amounts to fraud.

Additionally, this puts the procuring officials who have knowingly been permitting such actions on notice that Congress and the American people are going to be taking a closer look at procurement practices which result in a waste of taxpayer's money.

On breakout Procurement Center representatives——

Senator NICKLES. May I interrupt you for a moment?

Are you almost finished?

Mr. ENGFER. Yes.

Senator **Nickles**. I need to be leaving. I do not want to leave our final panelist out.

Your entire statement will be included in the record, and I have a question I want to ask you.

Mr. **Engfer**. I will end my comments there.

[The prepared statement of Mr. Engfer follows:]

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STATEMENT OF

CHARLES W. ENGFER

TRUSTEE AND TREASURER

NATIONAL SMALL BUSINESS

GOVERNMENT CONTRACTORS ASSOCIATION

BEFORE THE

UNITED STATES SENATE

COMMITTEE ON SMALL BUSINESS

APRIL 12, 1984

NSBGCA
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MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, GOOD MORNING. I AM CHARLES ENGFER, A TRUSTEE AND TREASURER OF THE NATIONAL SMALL BUSINESS GOVERNMENT CONTRACTORS ASSOCIATION (NSBGCA). ON BEHALF OF NSBGCA, I THANK THE COMMITTEE FOR THE OPPORTUNITY TO DISCUSS WITH YOU TODAY S.2489 and S.2434.

IN ADDITION TO MY POSITION WITH NSBGCA, I AM ALSO VICE-PRESIDENT OF LYNMAR SALES, INCORPORATED, IN FAIRFIELD, NEW JERSEY, WHICH IS A SMALL BUSINESS ENGAGED IN SELLING SPARE PARTS, PARTICULARLY SHIPBOARD PUMP AND TURBINE PARTS TO THE DEPARTMENT OF DEFENSE THROUGH THE NAVY AND THE DEFENSE LOGISTICS AGENCY (DLA). AS SUCH, I AM INTIMATELY FAMILIAR WITH THE DEFENSE ACQUISITION REGULATIONS AND DLA POLICIES CONCERNING PROCUREMENT. PERSONALLY, I HAVE BEEN INVOLVED IN FEDERAL GOVERNMENT CONTRACTING FOR THE PAST FIFTEEN YEARS.

NSBGCA CONSIDERS IT VITAL THAT CONGRESS ACT NOW TO REMOVE THE BARRIERS WHICH PREVENT SMALL BUSINESSES FROM PARTICIPATING IN THE FEDERAL PROCUREMENT PROCESS. WE ARE PLEASED TO SEE THESE TWO LEGISLATIVE PROPOSALS SQUARELY ADDRESSING THE PROBLEMS THAT HAVE BEEN RECOGNIZED AS PRIMARY OBSTACLES TO COMPETITIVE PROCUREMENT.

REGARDING S.2489, I WOULD LIKE TO ADDRESS MY COMMENTS TO THREE SPECIFIC AREAS COVERED THEREIN.

I. PUBLIC POSTING OF AND ACCESS TO SOLICITATIONS

THE FIRST OBSTACLE THAT A SMALL BUSINESS FACES IN TRYING TO SELL ITS PRODUCTS AND SERVICES TO THE FEDERAL GOVERNMENT IS BECOMING AWARE OF WHAT THE GOVERNMENT IS BUYING. THERE ARE BASICALLY TWO METHODS THAT A SMALL BUSINESS HAS OF LEARNING ABOUT PROCUREMENTS. ONE IS PUBLICATION IN THE COMMERCE BUSINESS DAILY AND THE SECOND IS BY MEANS OF THE BID BOARD, WHEREBY THE PROCUREMENT CENTERS PUBLICLY POST SOLICITATIONS PERTAINING TO REQUIREMENTS. COMMONLY, PRIVATE BUDDING SERVICES DAILY EXAMINE THE BID BOARDS AND SYNOPSIZE THEIR

CONTENTS FOR SMALL BUSINESSES WHICH SUBSCRIBE TO THEIR SERVICE. DEPENDING UPON THE ARRAGNEMENTS BETWEEN THE BIDDING SERVICE AND THE CUSTOMER, THE SMALL BUSINESS EITHER OBTAINS A COPY OF THE SOLICITATION ON ITS OWN OR THE BID SERVICE OBTAINS IT FOR HIM. OBVIOUSLY, IF THE REQUIREMENT IS NOT PUBLICLY POSTED, THE SMALL BUSINESS MAY NOT BE AWARE OF THE PENDING PROCUREMENT AND THUS IS PRECLUDED FROM PARTICIPATING IN THE BIDDING PROCESS. NSBGCA THEREFORE STRONGLY SUPPORTS THE PROVISION IN S.2489 WHICH REQUIRES EACH FEDERAL AGENCY TO PUBLICLY POST ANY SOLICITATION WHICH WOULD HAVE BEEN SYNOPSIZED IN THE COMMERCE BUSINESS DAILY IF IT HAD EQUALLED OR EXCEEDED THE APPLICABLE DOLLAR THRESHOLD.

ADDITIONALLY, IT IS ALSO IMPORTANT THAT A SMALL BUSINESS BE ABLE TO PROMPLTY OBTAIN A COMPLETE SOLICITATION, EITHER ON ITS OWN OR BY MEANS OF A BIDDING SERVICE. THIS LEGISLATION ALSO ADDRESSES THAT PROBLEM AND PROVIDES NECESSARY ACCESS TO TIMELY INFORMATION ABOUT CONTRACTING OPPORTUNITIES.

II. ACCESS TO TECHNICAL DATA

ONCE A CONTRACTOR KNOWS WHAT THE GOVERNMENT IS BUYING AND HAS A COPY OF THE SOLICITATION, HE NEEDS ACCESS TO TECHNICAL DATA PERTAINING TO A PARTICULAR REQUIREMENT. IN ORDER FOR A CONTRACTOR LIKE MYSELF TO BID, I NEED CURRENT, COMPLETE AND UNRESTRICTED TECHNICAL DATA. ACTUALLY OBTAINING SUCH DATA IS MADE DIFFICULT BECAUSE ALTHOUGH THE GOVERNMENT OWNS THE RIGHTS TO MUCH DATA, IT FAILS TO FOLLOW UP TO INSURE THAT (1) IT ACTUALLY RECEIVES THE DATA, (2) THE DATA IS COMPLETE AND ADEQUATE, AND (3) THE DATA DOES NOT BEAR A LEGEND IMPROPERLY RESTRICTING ITS USE. S.2489 REQUIRES THAT THE AGENCY INCLUDE CONTRACT PROVISIONS WHICH REMEDY THESE PROBLEMS BY (1) SPECIFYING THE TECHNICAL DATA DELIVERABLE UNDER THE CONTRACT AND A DELIVERY SCHEDULE THEREFOR, (2) ESTABLISHING CRITERIA FOR DETERMINING THE ACCEPTABILITY OF TECHNICAL DATA TO BE DELIVERED UNDER THE CONTRACT, AND (3) PREDETERMINING THE RIGHTS IN TECHNICAL DATA AS WELL AS REQUIRING THE CONTRACTOR TO PREPARE AND RETAIN A JUSTIFICATION FOR ANY RESTRICTION ASSERTED.

S.2489 ALSO REQUIRES THAT THE GOVERNMENT FOLLOW UP ON THE ALL-IMPORTANT TASK OF MANAGING TECHNICAL DATA. ONE KEY PROVISION REQUIRES THE DEVELOPMENT OF A COMPREHENSIVE PLAN FOR MANAGING THE VAST AMOUNT OF TECHNICAL DATA ALREADY IN THE SYSTEM AND THAT WHICH IS YET TO BE RECEIVED. THIS TYPE OF SOLUTION TO THE WHOLE TECHNICAL DATA PROBLEM IS LONG OVERDUE. IT WILL SERVE TO ALLEVIATE MANY SITUATIONS WHERE I AM UNABLE TO SUBMIT AN ALTERNATE PROPOSAL BECAUSE THE GOVERNMENT CLAIMS IT DOES NOT HAVE THE TECHNICAL DATA ON HAND TO EVALUATE MY OFFER.

A SIMILAR PROBLEM LIES WITH THE SO-CALLED REVISIONS SUBMITTED BY THE ORIGINAL EQUIPMENT MANUFACTURERS (OEMS). THE SCENARIO PLAYS OUT AS FOLLOWS: THE GOVERNMENT CONTRACTS TO BUY AN ITEM OF EQUIPMENT. INCLUDED IN THAT CONTRACT IS THE COST OF THE DATA AND THE RIGHTS TO THE DATA. THE GOVERNMENT OWNS THE RIGHTS AND CAN PROCURE SUBSEQUENTLY REQUIRED REPLACEMENT PARTS ON A COMPETITIVE BASIS. HOWEVER, SOMEWHERE ALONG THE LINE, THE OEM SUBMITS A "REVISION" TO THE TECHNICAL DATA PREVIOUSLY FURNISHED WITH UNLIMITED RIGHTS. AND, YOU GUESSED IT -- THE REVISION IS SUBMITTED BEARING A LEGEND RESTRICTING THE GOVERNMENT'S RIGHT TO USE IT. IN MANY CASES, THE CHANGE MADE TO THE DATA IS INSIGNIFICANT BUT OEMS HAVE BEEN SUCCESSFUL IN THIS REGARD BECAUSE THE EARLIER, UNLIMITED DATA IS DISCARDED AND REPLACED WITH THE "REVISED" COPY WHICH BEARS A LEGEND RESTRICTING ITS USE. I HAVE ENCOUNTERED SEVERAL SITUATIONS WHERE I WAS PREEMPTED FROM THE BIDDING PROCESS AS A RESULT OF SUCH A TACTIC. THE FOLLOWING IS ONE SUCH EXAMPLE.

I HAVE WITH ME TODAY TWO COPIES OF A MANUFACTURER'S DRAWING FOR THE SAME ITEM, AN INTERSTAGE RING. THIS INTERSTAGE RING IS A PART FITTED INTO A CENTRIFUGAL PUMP USED ABOARD NAVAL VESSELS. THE ITEM IS A NON-ROTATING PART SET IN A CASING SEPARATING TWO IMPELLERS WHICH ARE THE PUMPING DEVICES OF THE UNIT. ONE OF THESE DRAWINGS (EXHIBIT 1) IS REVISION "B", WHILE THE OTHER (EXHIBIT 2) IS REVISION "D". THE LATTER REVISION "D" BEARS A NOTE STATING: "THIS DRAWING HAS BECOME THE PROPERTY OF THE U.S. GOVERNMENT AND THE RESTRICTIONS NOTED ON THIS DRAWING DO NOT APPLY TO USES BY OR FOR THE U.S. GOVERNMENT." IN OTHER WORDS, THE U.S. GOVERNMENT IS FREE TO ALLOW PROSPECTIVE CONTRACTORS THE OPPORTUNITY TO BID FOR THE MANUFACTURING OF THE ITEM SHOWN ON THE PRINT. BOTH OF THESE

DRAWINGS WERE OBTAINED FROM NAVY SHIPS PARTS CONTROL CENTER (SPCC) IN MECHANICSBURG, PENNSYLVANIA.

FOR THIS NOTE TO APPEAR ON A DRAWING IN THE POSSESSION OF THE GOVERNMENT, THE GOVERNMENT EITHER PAID FOR THE DESIGN AND DEVELOPMENT OF THE PARENT EQUIPMENT OR PURCHASED THE RIGHTS TO THE DATA AFTER RECEIPT OF THAT SAME PARENT EQUIPMENT.

I HAVE MANUFACTURED SIMILAR ITEMS FOR THE GOVERNMENT IN THE PAST, BUT NEVER THIS PARTICULAR ITEM. HOWEVER, I ESTIMATE MY CURRENT PRICE FOR A QUANTITY OF 263 TO BE IN THE VICINITY OF $240.00 EACH. I CHOSE THE QUANTITY OF 263 FOR REASONS YOU WILL BE AWARE OF SHORTLY.

MY THIRD EXHIBIT IS A COPY OF A PAGE FROM THE NOVEMBER 2, 1982 ISSUE OF THE COMMERCE BUSINESS DAILY, SHOWING AN AWARD FOR THE ITEM IN QUESTION TO THE OEM ON A BLANKET ORDERING AGREEMENT FOR 263 PIECES AT A TOTAL CONTRACT PRICE OF $491,350.00 or $1868.25 EACH. THIS EXCEEDS MY PRICE PER PIECE BY $1628.25 AND AMOUNTS TO A TOTAL OVERBUY OF $428,229.75. THE ITEM WAS NEVER ADVERTISED FOR PROCUREMENT DESPITE THE FACT THAT THE NAVY HAD PREVIOUSLY PURCHASED IT FROM AN ALTERNATE SOURCE (A SMALL BUSINESS) FOR $122.00 each.

THE ORIGINAL REASON GIVEN BY THE BUYING ACTIVITY (SPCC) WAS THAT THEY WERE NOT IN POSSESSION OF THE LATEST REVISION OF THAT DRAWING. NSBGCA CONTENDS THAT ONCE A TECHNICAL DATA PACKAGE IS OWNED BY THE GOVERNMENT, WHICH EXHIBIT "2" CLEARLY SHOWS, ANY LATER REVISION MUST BE APPROVED BY THE GOVERNMENT AND OWNED BY THE GOVERNMENT.

THE PROVISION OF S.2489 WHICH REQUIRES A CONTRACTOR TO IDENTIFY IN ADVANCE OF DELIVERY TECHNICAL DATA WHICH IS TO BE DELIVERED WITH RESTRICTIONS ON THE GOVERNMENT'S RIGHTS SHOULD SERVE TO PREVENT THIS TYPE OF SITUATION FROM RECURRING.

THE ABOVE EXAMPLE ALSO ILLUSTRATES THE IMPORTANCE TO THE GOVERNMENT OF SEIZING THE OPPORTUNITY TO CHALLENGE DATA LEGENDS WHICH RESTRICT THE GOVERNMENT'S RIGHT TO USE SUCH DATA FOR ANY PURPOSE, INCLUDING FUTURE COMPETITIVE PROCUREMENT. PRESENTLY, PROCUREMENT REGULATIONS PERMIT THE GOVERNMENT TO

CHALLENGE RESTRICTIONS ON DATA, WITH THE RESULT BEING A CANCELLATION OF THE UNSUPPORTED RESTRICTION. HOWEVER, AN IMPROPERLY ASSERTED LIMITATION ON THE GOVERNMENT'S RIGHT TO USE DATA CAN PROVE VERY COSTLY TO THE GOVERNMENT IF IT IS THEN FORCED TO PROCURE ITEMS WITHOUT THE BENEFIT OF COMPETITION. CONVERSELY, A CONTRACTOR WHO IS SUCCESSFUL IN THESE TACTICS STANDS TO BENEFIT FINANCIALLY BY ENJOYING SOLE SOURCE STATUS.

NSBGCA STRONGLY FAVORS THE PROVISIONS OF S.2489 WHICH PROVIDE FOR PENALTIES IN ADDITION TO CANCELLATION OF THE RESTRICTIONS, IF A BOARD OF CONTRACT APPEALS OR A COURT DETERMINES THAT THE CONTRACTOR'S CLAIM OF PROPRIETARY RIGHTS IS SPURIOUS. PERHAPS THESE PROVISIONS WILL ACT AS A NECESSARY DETERRENT TO SUCH PRACTICES WHICH HAVE BEEN COSTLY TO THE GOVERNMENT AND IN REALITY AMOUNTS TO FRAUD. ADDITIONALLY, THIS PUTS THE PROCURING OFFICIALS WHO HAVE KNOWINGLY BEEN PERMITTING SUCH ACTIONS ON NOTICE THAT CONGRESS AND THE AMERICAN PEOPLE ARE GOING TO BE TAKING A CLOSER LOOK AT PROCUREMENT PRACTICES WHICH RESULT IN A WASTE OF TAXPAYER'S MONEY.

III. BREAKOUT PROCUREMENT CENTER REPRESENTATIVES

THE FINAL AREA I WOULD LIKE TO ADDRESS IS THE ASSIGNMENT OF BREAKOUT PROCUREMENT CENTER REPRESENTATIVES TO EACH MAJOR PROCUREMENT CENTER. AS A SMALL BUSINESS GOVERNMENT CONTRACTOR, I AM PLEASED TO SEE THIS PROVISION INCLUDED IN S.2489 AND STANDING ON ITS OWN AS S.2434. THE ASSIGNMENT OF ADDITIONAL PERSONNEL TO ASSIST IN THE BREAKOUT OF ITEMS FROM SOLE SOURCE TO DIRECT PURCHASE FROM THE ACTUAL MANUFACTURER OR OPEN COMPETITION IS A MAJOR STEP IN ENHANCING SMALL BUSINESS PARTICIPATION IN FEDERAL GOVERNMENT CONTRACTING.

I TAKE THIS POSITION IN LIGHT OF THE MASSIVE TRANSFER OF ITEM MANAGEMENT, COMMONLY KNOWN AS THE CONSUMABLE ITEM TRANSFER (CIT), FROM THE MILITARY SERVICES TO THE DEFENSE LOGISTICS AGENCY PROCUREMENT CENTERS, GIVING THEM THE PROCUREMENT RESPONSIBILITY FOR THOSE ITEMS.

AS MANY OF THOSE ITEMS WERE TRANSFERRED LACKING THE ADEQUATE TECHNICAL DATA PACKAGES NECESSARY FOR OPEN BIDDING, THESE PROCUREMENT CENTERS ARE FORCED TO PURCHASE FROM THE OEMS ON A SOLE SOURCE BASIS. CONTRACTORS WHO HAD PREVIOUSLY SUPPLIED THESE ITEMS TO THE SERVICES (USING DATA AVAILABLE FROM THE SERVICES) ARE NOW IN THE POSITION OF HAVING TO SUBMIT THAT DATA AS AN ALTERNATE OFFEROR, WHICH PLACES THE BURDEN OF TECHNICAL EVALUATION ON THE PROCURING ACTIVITY. THIS SITUATION HAS RESULTED IN A BACKLOG IN THE TECHNICAL EVALUATING PROCESS, DELAYING PROCUREMENT AND JEOPARDIZING MILITARY READINESS. BY ASSIGNING A BREAKOUT PROCUREMENT CENTER REPRESENTATIVE AND PROVIDING TECHNICAL ADVISORS, THIS BACKLOG WILL BE SIGNIFICANTLY REDUCED. ANOTHER OBVIOUS ADVANTAGE IS THE POTENTIAL FOR COST SAVINGS GENERATED BY THE RESULTANT COMPETITION.

THIS CONCLUDES MY PREPARED STATEMENT.

THANK YOU FOR THE OPPORTUNITY TO PRESENT THE VIEWS OF NSBGCA AND MY OWN PERSONAL VIEWS REGARDING THESE LEGISLATIVE PROPOSALS. I WILL BE PLEASED TO ANSWER ANY QUESTIONS YOU MAY HAVE AT THIS TIME.

Senator **Nickles**. Thank you very much.

Mr. Petrillo.

STATEMENT OF JOSEPH J. PETRILLO, COUNSEL, NATIONAL ASSOCIATION OF AIRCRAFT & COMMUNICATION SUPPLIERS, INC., NORTH HOLLYWOOD, CA

Mr. **Petrillo**. Thank you very much, Senator Nickles.

My name is Joseph Petrillo. I am with the law firm of Bowman, Conner, Touhey & Petrillo. We are here representing the National Association of Aircraft & Communication Suppliers.

The association we represent is a group of small businesses engaged in the supply of military spare parts.

Briefly stated, the association strongly supports the legislation under consideration, with only minor reservations which are in the statement we have provided for the record.

Specifically, the association is encouraged by the provisions dealing with technical data, access to procurement information—and by that we mean the Commerce Business Daily and the public posting of solicitations—and also the provisions dealing with prequalification. Each of these provisions deals with real, genuine problems faced by the membership of the association every day in their dealings with the Federal Government.

We know from our experience that small businesses are, in fact, precluded from Government procurement by the problems this bill seeks to address, and we believe that any attempt to minimize or diminish those problems ignores the legitimate interest of small business in our defense posture.

Rather than summarize further the comments in our statement, I would like to respond just briefly with regard to some of the things I have heard this morning. Many of the comments I have heard ignore the very substantial flexibility that this bill grants the agencies that have to implement it. The assumption seems to have been that each contracting officer will take, in each procurement, the full measure of steps that this bill envisions and will exercise little or no discretion in choosing what is appropriate in the particular instance.

That flexibility gives us some concern because I have been in the practice of procurement law for long enough to see many printed forms waiving this or that requirement which require only the insertion of a procurement number and the signature of an appropriate official. I think the next step will be to print the forms with the signature as well.

I think passage of this type of legislation obligates the committee to come back several years hence and make certain it has been implemented properly and fully.

In addition to that, I want to comment briefly on the *Commerce Business Daily* because that is a matter of intense concern to our membership. I have heard today that it would be impossible to provide past procurement histories and estimated procurement quantities in the *Commerce Business Daily*. I know for a fact that is not the case with the procurement systems our membership deals with. Those procurement histories are made available to private concerns by the Government. Some bidding services provide them along with solicitation information. So they are there, and they certainly should be available to the persons in the Government doing the actual procurement.

With regard to estimated procurement quantities, of course, there are estimates made as part of the budget function, as part of the logistics function. I do not believe the contracting officer gets up in the morning and selects some numbers at random and decides those are the parts he will buy that day.

Finally, with regard to planning, I can see how in certain contexts certain things are not appropriate. However, I cannot understand an argument that says we should not plan, we should not make a decision at all, but we should merely go ahead as we are going on now.

As Mr. Hahn stated, probably 10 percent of these purchases are competitive. Therefore, any way you look at the problem, it is there, it is real, and it needs to be addressed.

Thank you very much.

[The prepared statement of Mr. Petrillo follows:]

NAACS National Association of Aircraft & Communication Suppliers, Inc.
P.O. BOX 9176, NORTH HOLLYWOOD, CALIFORNIA 91605

STATEMENT BY
THE NATIONAL ASSOCIATION OF AIRCRAFT & COMMUNICATION SUPPLIERS, INC.
ON
S. 2434 AND S. 2489
BEFORE
THE SENATE COMMITTEE ON SMALL BUSINESS

APRIL 12, 1984

The National Association of Aircraft & Communications Suppliers, Inc. supports both bills. They combine the best features of other proposed legislation aimed at resolving barriers to competition -- particularly for small businesses -- in the procurement of spare parts.

At the outset, the Association wishes to note that it is in favor of increasing competition -- rather than increasing regulation -- as a means of obtaining the best prices, quickest availability, and most improved sources of supply for military spare parts and components. We believe that increased competition is superior to other avenues, such as profit regulation legislation.

S. 2434 and S. 2489 are also commendable in that they address the difficulties in spares procurement as primarily a management problem. In this context, improvement is possible, but not with simple solutions, however fundamental. The difficulty, however, is that any initiative to improve management is useless unless it is implemented properly. Therefore, the job will not be complete with the enactment of these bills. It will still be necessary for Congress and this Committee to maintain periodic oversight, in order to guarantee that the reforms established in this legislation are carried out fully and faithfully.

Aside from these general comments, the Association wishes to discuss three specific aspects of the pending legislation -- access to and use of technical data, access to procurement information in general, and prequalification procedures.

I. TECHNICAL DATA.

The members of the Association are heavy users of defense technical data, and appreciate in depth its pivotal importance in procurement. The Association is now working with the Department of Defense to help prepare regulations under 10 U.S.C. §140c (added by Section 1217 of the DOD Authorization Act for 1984, Public Law 98-94). The Association hopes that these regulations will continue to provide access to the technical data necessary to supply spare parts to the U.S. Department of Defense, and to friendly foreign governments under licensed export sales. It is absolutely necessary that such data be available and accessible before a solicitation is issued. Usually, bidding times are too short to permit a company to obtain the data in question, review it adeqately, and submit a responsive bid or offer. 1/ Of course, access to data under these regulations would encompass only that data which is not proprietary. In other words, if a private concern claims that the data was furnished with "limited" rights, it will not be furnished to other parties.

In this regard, the Association particularly commends those sections of S. 2489 which require improvements in technical data management. The experience of those in the Association has shown two major defects in the current management of such technical data. First, there appears to be little or no information regarding the degree of rights properly available to the Government, and the degree of rights properly retained by private parties. This lack of oversight is combined with the apparent practice, by some contractors over some time periods, of stamping all data with some form of restrictive legend, whether or not the legend is warranted. Accordingly, the Association believes that some of the restricted rights legends now present in technical data may not be authorized. However, the Government is often in no position to ascertain the validity of those legends, because it cannot make a systematic comparison of appropriate contract clauses with delivered data.

1/ This is not necessarily the case where the technical data involved is part of the solicitation package. However, in many instances, relevant technical data is apparently unknown to those conducting the procurement, and is not included with the solicitation.

This brings us to a second difficulty with current data management systems. Where the Government's own resources seem inadequate to ascertain the validity of data rights restrictions, nothing further is done. When members of the Association challenge rights restrictions in technical data, responsible Defense Department officials will usually accept the legend, on its face, without the need for any substantiation or validation whatsoever. Even where it is clear that the Government does not possess sufficient information to verify or deny the validity of the restriction, no inquiry or challenge is made to the company which applied the restrictive legend. This attitude is so consistent that it appears to be a matter of established, if unarticulated, policy.

The provisions of S. 2489 would address most of these difficulties. Section 5 lays out in great detail the type of management steps that are necessary for the appropriate administration of existing and future technical data. Section 6 sets forth a procedurally fair and balanced means of determining the validity of rights restrictions. The Association believes, however, that it would be appropriate to add to Section 6 some mechanism whereby a challenge of these rights can be triggered by a potential competitor. In other words, if a company seeking to introduce competition is blocked by data rights restrictions, perhaps asserted by a sole source supplier, the prospective competitor could obtain the assistance of the Defense Department in establishing the validity of the restrictions.

II. ACCESS TO PROCUREMENT INFORMATION.

A. The Commerce Business Daily

Members of the Association are highly dependent upon the *Commerce Business Daily* and similar publications to obtain prompt notice of procurement opportunities. Much of the business done by members of the Association with the Federal Government consists of numerous contracts of smaller dollar amounts, awarded by geographically dispersed procurement offices. As small businesses, the members of the Association cannot afford to maintain on-site representation at each or even most of these procurement offices. Therefore, the *Commerce Business Daily* is of enormous importance to them.

The Association strongly supported Public Law 98-72, the origin of which was a bill reported by this Committee. We are pleased to report that the measure appears to have been enormously successful. The size of the *Commerce Business Daily* is increasing, and the notices provided are more and more timely. Agency compliance with the requirement to synopsize proposed procurements, although not yet perfect, has certainly improved.

Particularly gratifying were the provisions of Public Law 98-72 dealing with orders placed against basic ordering agreements and similar arrangements. Coverage of this type of procurement is certain to increase competition and decrease prices. The members of the Association are enormously concerned about pending legislation which, in restating the basic provisions of Public Law 98-72, would drop specific coverage of such orders.

The enhanced quality of synopses has, we understand, caused certain difficulties for implementing agencies. Improved timeliness of synopses has meant additional requests for solicitations. Additional solicitations have meant more bids and offers. In some instances, procuring agency resources for reproducing and disseminating solicitations, and for evaluating bids and offers, may be stretched thin.

The provisions of S. 2489 regarding synopsis in the *Commerce Business Daily* will continue the process of improvement begun with Public Law 98-72. Indeed, we believe that more detailed synopses in the *Commerce Business Daily* may alleviate some of the problems being experienced with lack of facilities to reproduce solicitations. Current synopses are so terse that an interested prospective contractor must usually request the solicitation in order to determine whether there is any interest in supplying the part involved. A fuller description of the component would enable some businesses to make this judgment from the synopsis alone, thus obviating an unnecessary request for the solicitation.

However, it must be recognized that larger synopses will mean an expanded *Commerce Business Daily*. In this regard, the members of the Association have noted that the improved synopses under Public Law 98-72 have already strained the system for publishing and disseminating the *Commerce Business Daily*. Specifically, notices of contract award are published irregularly and infrequently. Moreover, we have reason to believe that some procurement notices may not be published at all.

Accordingly, consideration must be given to having the *Commerce Business Daily* printed using facilities with enhanced capability. In this regard, it might be preferable to have the printing performed by a private contractor, rather than by a Government-owned printing press. We request that the Committee seriously consider exempting the *Commerce Business Daily* from the requirements of Title 44 of the U.S. Code. Better availability of this information through computerized data bases should also be explored.

B. Public Posting

Members of the Association have been intensely interested in the guidelines for the public posting of prospective contracts. As noted, many of the contracts won by members of the Association are of smaller dollar amounts.

Contracts which are not expected to exceed $10,000 do not appear in the Commerce Business Daily. However, in the past, they have been posted on "bid boards" at the procuring office. Although members of the Association are usually unable to maintain on-site representation at each of these offices, they nonetheless receive notification through privately-owned bidding services, which transcribe bid board information and disseminate it via newsletters. Thus, public posting is another means by which members of the Association can obtain timely notification of procurement opportunities.

A recent development has been of some concern to the members of the Association. For some time, the threshold for publicly posting defense solicitations was $2,500. That is, if the procurement was expected to exceed this amount, it would be posted on the bid board. In February, 1983, however, the Defense Acquisition Regulation was amended to increase the threshold to $5,000. This new threshold was observed by various components of the Air Force Logistics Command, including some which had customarily posted all procurements, including those under $2,500 in amount.

Members of the Association met with officials of the Air Force Logistics Command at Wright-Patterson Air Force Base, and have obtained the posting of some procurements below the threshold, including most procurements in which the members are interested. However, we continue to support the adoption of policies, if necessary by legislation, which would require all procurement opportunities to be made known publicly. Without such notification, the rights granted small businesses under 15 U.S.C. §637b are meaningless.

As with synopsis in the Commerce Business Daily, better notification means more competition. This, in turn, might require that additional personnel be made available to assist in the competitive bidding process. S. 2434 is a step in the right direction. In addition to the personnel described in this bill, however, it may also be necessary to provide additional funding for more buyers, engineers, and other procurement and technical staff. We believe that the added cost savings derived from increased competition will be more than adequate to fund these efforts.

III. PREQUALIFICATION.

S. 2489 also would improve the current erratic policies and procedures regarding prequalification. Members of the Association have found the lack of policy guidance in this area to be a major impediment to their participation in the contracting process. Although the General Accounting Office has made clear that agencies must provide a route for qualifying a company's products, most agencies apparently have not adopted an disciplined methodology to implement this goal. Members of the Association have therefore found it difficult or impossible to obtain agency approval to do such simple things as replace overaged gaskets and O-rings on otherwise unused and fully serviceable parts. A legislative statement of the obligation of agencies to provide such procedures will, we think, greatly alleviate the problem.

Respectfully submitted,

BOWMAN CONNER TOUHEY & PETRILLO

By: J. J. Petrillo
Joseph J. Petrillo

Counsel to the National
Association of Aircraft &
Communication Suppliers, Inc.
(202) 965-7600

Senator NICKLES. Thank you very much.

Mr. Petrillo, would you be kind enough to give us an analysis of sections 5 and 6 of the bill, not now, but possibly submitting them in writing, as we have asked some of our other panelists to do?

Mr. PETRILLO. Yes, I would be glad to do that.[1]

Senator NICKLES. Mr. Hahn, would you do the same?

Mr. HAHN. Surely.[1]

Senator NICKLES. Mr. Hahn, you have also made several recommendations at the conclusion of your statement, and we will look at those as well. I appreciate the comments that you have stated in representing those members of all of your associations in endeavoring to open the door and be able to compete and solve some of the problems that you have encountered.

Mr. Engfer, I would just touch on one thing. I happen to be familiar with the items that you are looking at. You have a manufacturing concern?

Mr. ENGFER. We have a facility in Fairfield, NJ. We do a lot of subcontracting, and we do have manufacturing facilities in Norfolk, VA, and in Jacksonville, FL.

Senator NICKLES. You can and have or you can manufacture rings like this?

Mr. ENGFER. Oh, yes. Most definitely, yes.

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[1] Information not available at time of going to press.

Senator NICKLES. You said basically that this corporation—and I am going to make this part of the record; it is the Worthington Corp.—you feel as though it has modified their drawing which would keep it in a proprietary——

Mr. ENGFER. I know one thing. I received that drawing initially in 1974. I made a proposal to the Navy on that item and I did not get the job. It was quoted——

Senator NICKLES. Someone else got the job for less?

Mr. ENGFER. I think I said in my testimony $122. It came out again and I was not the successful offeror again. But the item and the drawing—or the drawing, at least—was nonrestricted and was received by the Navy with that revision D, with that note that the Government had inserted that that drawing was the property of the Government and can be used to their advantage for public bidding.

Senator NICKLES. Then why would it go back to the OEM?

Mr. ENGFER. I have not really been able to determine that. I would say that SPCC had commented to me—when I requested that same information, they had told me that a later revision of the drawing existed. Now whether they had it in their possession or not was something I was not able to determine at that particular time.

What does happen, a drawing such as that, a revision D or E will surface. Revision E may be received at that facility, the Navy Department or SPCC, with a restrictive legend on it. Consequently, what happens, when a new drawing is received or a revision of a drawing is received, all previous revisions are discarded. Had that proprietary legend not been challenged, that would be the only data or piece of data for that item left in the Navy's files. So all of your nonrestrictive data is now in the garbage, and now the restrictive data is all you have left. So when it comes time to repurchase, the contracting officer sees in front of him a restrictive drawing. He is not then permitted to submit this drawing out for competition.

In this case, what the Navy decided to do was just arbitrarily take 263 of these stage pieces and buy them from the OEM at that ridiculous price.

Senator NICKLES. I appreciate your bringing that to our attention.

I appreciate the indulgence and patience of our final panel in the fact that we were here for some time this morning.

I appreciate the cooperation of all of our panelists. We do ask that you would be responsive to the questions that we have either asked orally or may submit to you in written form as well.

Thank you very much.

We will adjourn the meeting.

[Whereupon, at 11:50 a.m., the committee recessed, to reconvene at the call of the Chair.]

[Subsequent information was received and follows:]

United States Senate
COMMITTEE ON SMALL BUSINESS
WASHINGTON, D.C. 20510

April 17, 1984

Mr. Charles W. Engfer
Trustee and Treasurer
National Small Business Government
Contractors Association
277 Fairfield Road
Fairfield, New Jersey 07006

Dear Mr. Engfer:

I would like to extend to you my thanks for testifying at the Senate Small Business Committee's April 12, 1984 hearing on S. 2489, the "Small Business Competition Enhancement Act of 1984", and S. 2434, a bill to amend section 15 of the Small Business Act by requiring the assignment of breakout procurement center representatives at major procurement centers. Your written statement and your oral testimony will be very helpful to the Committee during our further consideration of these two bills.

Due to the time constraints of the hearing, several important points raised by your written statement and oral testimony were not fully explored. In order to make the hearing record complete, the Committee would greatly appreciate it if you would provide written responses to the attached questions, which will be included in the printed hearing record.

Presently, I intend to include these bills on the agenda for a Committee mark-up session scheduled for May 8th. Therefore, it is essential that your written responses be received by the Committee no later than April 27, 1984.

Your responses should be directed to the Committee on Small Business, United States Senate, Room 428A Russell Senate Office Building, Washington, D.C. 20510, to the attention of William B. Montalto, the Committee's Procurement Policy Counsel. Should you have any questions concerning this request, and any requests made during the course of the hearing, please telephone Bill at 224-5175, or Alan L. Chvotkin, Minority Chief Counsel, at 224-8497.

Again, thank you for your participation at this important Committee hearing, and for promptly furnishing the responses to our questions for the record.

With every good wish, I am

Sincerely,

LOWELL WEICKER, Jr.
Chairman

Enclosures (Omitted.)

NSBGCA
NATIONAL SMALL BUSINESS
GOVERNMENT CONTRACTORS ASSOCIATION
277 FAIRFIELD ROAD
FAIRFIELD, NEW JERSEY 07006
(201) 575-2533

May 7, 1984

Committee on Small Business
United States Senate
Room 428A Russell Senate Office Building
Washington, D.C. 20510

Attention: William B. Montalto

Dear Mr. Montalto;

With reference to Senator Weicher, Jr.'s letter of April 17, 1984 and the questions posed therein by Senator Dixon, I am pleased to answer those questions as follows:

Q 1) Does the Government have a need for complete and accurate technical data if that can be made available, so that it will be able to compete certain requirements?

A 1) Yes. Without an adequate technical data package for a given item or part of an item, the Government is forced to purchase the item or part on a sole source (non-competitive) basis. Without the benefit of competition, as many studies and reports have noted, the Government will pay higher prices and endure longer lead times, thereby jeopardizing readiness.

Q 2) When the Government "pays" for the development of an item, in whole or in part, does the Government have rights to that item, and rights in the data necessary to develop and reporduce that item?

A 2) When the Government pays for the development of an item in whole, there is no question that the Government owns the rights to the item and the rights in data necessary to develop and reproduce it. When the Government paid in part for development, it depends upon the terms of the initial contract as to what the status of the rights are. There should be no reason why the Government should not own the rights to use the item and data if it pays for the items' development, as well as at least be able to secure a license from the contractor with whom it has shared any development cost for future competitive procurements.

Q 3) Does the Government have a legitimate right to require the delivery of technical data to back up a purchase when that item is NOT covered by claims of proprietary data?

A 3) Absolutely. Whether the Government owns the technical data or whether the data is proprietary to the contractor, the Government must have the right to require delivery of technical data to back up a purchase. It is essential that all technical data be in the Government's possession. If the Government owns the rights to the data, it will then be able to send it out to prospective contractors for competitive procurement. Even if it does not own the rights to data, the Government must still have it in its possession in order to evaluate alternate proposals. That way if the data is proprietary, competition can still be effected by comparing the proprietary data with data submitted by an alternate offeror. If approved, an additional source for the item is found and thus, the item is "broken out" from sole source.

Q 4) Must the Phrase "developed at private expense", have a single definition that is uniformly applied across all agencies, if possible?

A 4) Yes. A suggested definition for "developed at private expense" may read as follows:

> "that which was developed or created entirely
> without the assistance, financial or otherwise,
> of the U.S. Government."

Q 5) If a non-commercial item is not developed with Government funds, is it your view that any proprietary rights should rest solely with the private concern and be solely under the control of that private concern?

A 5) Yes.

Q 6) Do you have an opinion about the recommendations of some that the proprietary data rights to a system sold to the Government become the property of the Government after a fixed period of time?

A 6) The problem with legislation that contains provisions which require the expiration of proprietary rights after a fixed period of time is the inherent unfairness of the way it is written. It appears that the Government will just abscond with the rights to data for items developed at private expense without any financial compensation to the owner of the rights. Additionally, it is not feasible in every case to require all technical data to become the property of the Government after a fixed period of time. It is just not necessary. There is also the possibility of abuses by both the Government and the contractors. For example, if the proprietary rights to an item are due to expire in a short period of time, the Government may choose to hold up procurement until it owns the rights and then procure the item competitively. On the other hand, the contractor who knows its rights are about to expire and has a purchase request pending may charge an outrageously high price in order to recoup its development cost. Or the contractor may be tempted to "revise" data which is proprietary and thus keep the rights for an additional period of time.

Q 7) During the planning for a procurement, should the Government be able to know in advance the extent to which its purchase may be covered by a firm's claims of proprietary data that may inhibit competition on future reprocurements?

A 7) Yes. If the Government knows the status of data rights in advance of its needs, it will be better able to conduct negotiations for purchase of the entire system.

Q 8) Should a contractor be given the opportunity to propose to the Government that the contactor will sell or license its proprietary data if it so chooses, and to provide an estimate of that cost to the Government for that sale or license?

A 8) Yes.

Q 9) If a system's functional performance will be the same as between a system where the Government could have the technical data necessary for reprocurement, and a system where it has no access to that data, shouldn't the Government have the opportunity to purchase that system where that data is offered?

A 9) Absolutely. Even though this may make the initial contract price higher, the cost of competing future procurements will be miniscule compared to the cost of sole source procurement.

Q 10) Mr. Adams says on page 8 of his statement that it is not possible to tell whether proprietary data is accurate just by looking at it. Please explain the system the Government uses to challenge claims of proprietary data?

A 10) Although there is a provision in the Defense Acquisition Regulations which permits the Government to challenge contractor claims of proprietary rights in technical data, it has been my experience that it is not frequently used. In my oral testimony, I outlined a situation where data at one time was unimpaired by proprietary data claims and later, the buying actively chose to procure the item sole source, because of a subsequent claim of proprietary rights. It is my belief that should the Government exercise its rights to challenge proprietary data rights claims, that many, many items now procured non-competitively will be broken out for open competition. This obvioulsy will benefit small business. Additionally, I favor penalties for contractors who, without substantial justification, attempt to inpair the rights of the Government to procure items competitively by the placing of proprietary legends on Government-owned technical data. This situation has gone unchecked for many years at high cost to the Government (the taxpayers) and at a windfall to the large prime contractors.

Q 11) Once a claim of proprietary data has been asserted, or a restricted Procurement Method Code assigned, is it periodically reviewed?

A 11) The regulations require periodic review, but my experience shows it is not done.

Q 12) a) Does the Government have the right to insure that its purchases are of a quality product that meets its needs? b) Is the Government able to properly analyze a product with the time-frames set out by a particular procurement requirement if it does not resort to some type of qualified products list? c) Does the qualified products list insure the Government that it obtains a quality product?

A 12) a) Absolutely. b) I am not sure what is meant by "properly analyze a product." If the Senator means time to evaluate technical data submitted with an offer, in many cases, the Government does not have the time to do so for the instant requirement but still can continue evaluation process in order to approve an item for future requirements. c) Not always. In many cases, the problems with quality are avoided by inspection not prequalification.

Q 13) One of the key requirements for you to produce an alternative product, or to meet the Government's military specifications is to have access to the technical data that the government may have. On procurement opportunities that you are familiar with, can you please explain some of the problems your company has had in trying to get access to technical data?

A 13) One of the biggest problems I face is receiving that data in a timely manner after I request it. Commonly, I become aware of a procurement opportunity through the Commerce Business Daily or a private bid reporting service to which I subscribe. I then immediately check to see if I have the data on hand. If not, I request it. All too often, the bid opening date has passed before I have received the requested data. Or it will arrive without sufficient time to properly prepare a bid. There are also times when requests for data go completely unanswered and I never receive the data. Probably the most frustrating occurrence is receipt of a data package for an item completely unrelated to the bid requirements.

Q 14) When the Government has provided you with technical data that you have asked for, have you found that that data is sufficiently complete and technically accurate to permit you to respond to government's needs. As you know, one of the contract clauses inserted in many government contracts says that, even if a contractor were to follow the government's drawings and specifications, the resulting part may still not meet the government's needs.

A 14) From my experience and without exaggeration, 20 to 30 percent of data I receive is illegible. The data is transmitted on 35mm film attached to aperture cards. The problem is not with the data itself but the quality of the film print. Since the hard copies of data are usually destroyed once a film record is made, it is rather disheartening to realize that the record the Government has is useless. On the plus side, most legible technical data packages I receive are complete and technically accurate, thereby permitting us to make a proper bid on the item.

Q 15) Do you have any additional comments on issues that Congress should address to assist small business access to the Federal Procurement opportunities?

A 15) I firmly believe that the assignment of breakout procurement center representatives adequately staffed with technically trained personnel and allowed to perform their function without DoD interference will really serve to open up procurement opportunities to small business. I further believe that public posting of solicitations at procurement centers is essential to expanding small business participation in the federal procurement process. The DAR Council had tried to pull back on the number of solicitations required to be publicly posted. Only the vigorous opposition of small business groups prevented their anti-competitive scheme from being implemented. It is this type of attitude at the Pentagon that must be reversed for the benefit of small business and the nation as a whole.

Once again, I thank you for the opportunity to testify at the Senate Small Business Committee's April 12th hearing. If you have any further questions, please contact me.

Very truly yours,
NSBGCA

Charles W. Engfer

Charles W. Engfer
Trustee and Treasurer

LOWELL WEICKER, JR., CONN., CHAIRMAN
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R. MICHAEL HAYNES, CHIEF COUNSEL
ALAN L. CHVOTKIN, MINORITY CHIEF COUNSEL

United States Senate
COMMITTEE ON SMALL BUSINESS
WASHINGTON, D.C. 20510

April 17, 1984

Mr. Bruce N. Hahn
Manager
Government Affairs
National Tooling and Machining
Association
9300 Livingston Road
Port Washington, Maryland 20744

Dear Mr. Hahn:

I would like to extend to you my thanks for testifying at the Senate Small Business Committee's April 12, 1984 hearing on S. 2489, the "Small Business Competition Enhancement Act of 1984", and S. 2434, a bill to amend section 15 of the Small Business Act by requiring the assignment of breakout procurement center representatives at major procurement centers. Your written statement and your oral testimony will be very helpful to the Committee during our further consideration of these two bills.

Due to the time constraints of the hearing, several important points raised by your written statement and oral testimony were not fully explored. In order to make the hearing record complete, the Committee would greatly appreciate it if you would provide written responses to the attached questions, which will be included in the printed hearing record.

Presently, I intend to include these bills on the agenda for a Committee mark-up session scheduled for May 8th. Therefore, it is essential that your written responses be received by the Committee no later than April 27, 1984.

Your responses should be directed to the Committee on Small Business, United States Senate, Room 428A Russell Senate Office Building, Washington, D.C. 20510, to the attention of William B. Montalto, the Committee's Procurement Policy Counsel. Should you have any questions concerning this request, and any requests made during the course of the hearing, please telephone Bill at 224-5175, or Alan L. Chvotkin, Minority Chief Counsel, at 224-8497.

Again, thank you for your participation at this important Committee hearing, and for promptly furnishing the responses to our questions for the record.

With every good wish, I am

Sincerely,

LOWELL WEICKER, Jr.
Chairman

Enclosures

QUESTION FOR MR. HAHN (FROM SENATOR WEICKER)

- Please furnish to the Committee a copy of, or a complete citation to, the 1968 Department of Defense study on "qualified products lists", which is mentioned in your statement at Pg. 7-8.

QUESTION FOR MR. HAHN (FROM SENATOR NICKLES)

- Please furnish to the Committee a copy of the report prepared by the National Tooling and Machining Association study group following their visit to Air Force Logistics Command's Oklahoma Air Logistics Center at Tinker Air Force Base.

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301

24 MAY 1968

5/27/68
For Action

INSTALLATIONS AND LOGISTICS

AR

Col Scarlock

MEMORANDUM FOR Brigadier General William W. Snavely, Director for Procurement Policy, OASD(I&L)CD

SUBJECT: Qualified Products: ASPR Case (68-121)

In response to the request in your memorandum of May 15, 1968, this correspondence supports the proposed ASPR amendment identified under Case 68-121.

The qualification process was instituted many years ago to permit the establishment of a list of approved materials for use when such list was essential in eliminating delay in procurement because of the long testing time which would otherwise be required for conformance tests under contract. The process was intended for use on a selected basis and to date is applied in approximately 5% of the existing Federal and Military specifications. This percentage has been on the increase in recent years and during 1965, the Assistant Secretary of Defense for Installations and Logistics directed that an in-depth study be undertaken to ascertain the reasons. By memorandum dated March 25, 1966 to the I&L Secretaries of the Military Departments and the Director, Defense Supply Agency, the ASD(I&L) endorsed the analysis of Product Qualification and Qualified Products Lists resulting from the study. A copy is attached as enclosure 1.

With respect to the proposed amendments to ASPR, the recommended changes are in consonance with the findings of the study and are designed to support the original intent of the qualification process, e.g., to eliminate delay in procurement because of the long testing time which would otherwise be required for conformance tests under contract.

The aforementioned study coupled with long years of experience in administering the qualification process reveals that there is a misunderstanding of the role of qualification and, in fact, basic procurement policy. Current policy prescribes that the quality of items to be procured be specified or described in terms of minimum requirements. The qualification process is a concession toward lesser assurance of quality. Advance qualification in no way insures that supplies being procured meet critical engineering, performance and compatibility requirements implied in your memorandum. On the contrary, it introduces an added risk by precluding the full gamut of testing during production and at the time of delivery. Further, the qualification process in no way promotes competition for Defense contracts. Conversely, it becomes a bidders list restricted only to those manufacturers who have successfully met the qualification requirements. This is embodied in ASPR paragraph 1-1107.1(a) which discusses bids or proposals to the Government as being acceptable when they offer products which are qualified for listing on the applicable Qualified Products List at the time set for opening of bids or award of negotiated contracts. Similarly, ASPR paragraph 1-1107.1(b) requires prime contractors to furnish components which have been tested and qualified for inclusion in the applicable Qualified Products List by the time of award of the subcontract. It is interesting to note that at the time of the aforementioned study, there were 747 specifications of the approximate 2,000 requiring qualification that had only one supplier listed on its associated Qualified Products List. This condition most certainly does not insure the availability of competition for Defense contracts.

In keeping with the full intent of the qualification process, conditions constituting the basis for including qualification requirements in specifications have been narrowed. Acceptance of the proposed amendments would in effect, reduce misinterpretation of the reasons for and the results of the qualification process, and limit its use in specifications when product testing is of such duration, complexity or expense, as to render repetitive testing impractical. Repetitive testing is deemed impractical when to do so would result in delivery delay or the use of a specialized equipment that would incur added costs because it is uncommon in the plants of prospective producers and it would be unduly expensive to produce or procure. When testing exceeds the normal time for producing the first delivery lot by at least 30 days, delay in delivery is a factor. If, however, the testing can be accomplished within the time required for producing the first lot, delay is not a factor and qualification is not applicable.

It should be pointed out that administration of the qualification process is a complicated and difficult task. Items, once qualified, are essentially frozen to a given design, process and material. A change requires a costly requalification procedure and departmental engineering and procurement activities must be alert to these changes. Indiscriminate use of the qualification process increases its management difficulties and tends to defeat the real purpose of the process. Qualification therefore should very carefully be employed.

The proposed amendment to ASPR is in consonance with agreements reached among the three Military Departments, the Defense Supply Agency and this office on policy changes to Defense Standardization Manual 4120.3-M.

In this connection, it is strongly recommended that the ASPR Committee approve the proposed amendments so that policy, procedures, and implementation thereof will be consistent.

O C Griffith

O. C. Griffith, Colonel, USAF
Director, Technical Data
and Standardization Policy

Enclosure

ANALYSIS OF PRODUCT QUALIFICATION AND QUALIFIED PRODUCTS LISTS

HISTORY

In the late 1920's a decision rendered by the Comptroller General of the United States, permitted the Navy to establish a list of approved materials and to use it when such list was essential in eliminating delay in procurement of military items because of the long testing time which would otherwise be required for conformance tests under contract. This list was called the "Navy Acceptable List of Approved Materials" and was later changed to the "Navy Qualified Products List." Following World War II, the Army, Navy and Air Force established a joint list known as the "Military Qualification Products List" to be used in connection with military procurements. The policies and procedures applied to the Military and Federal Qualified Products Lists are based on the same Comptroller General decisions as the original Navy Acceptable List. The present statutory authority for Qualified Products Lists is found in the U. S. Code under 10 USC 2452.

Pursuant to this Act, authority to establish, publish, review and revise Qualified Products Lists was delegated to the military departments. Specific provisions for the conditions under which Qualified Products Lists may be issued were included in the Armed Services Procurement Regulations (ASPR) and general information, procedures, format and provisions governing the qualification process were delineated in Defense Standardization Manual M200.

PURPOSE, RESPONSIBILITY AND JUSTIFICATION

Since the specification is the only medium for establishing a requirement for qualification, and most specifications are based on performance requirements, the possible variations in design and quality and the nature of the requirements and tests for certain classes of products are such that it is deemed impractical to procure products solely on conformance tests without unduly delaying delivery. To obtain products of requisite quality in such cases, qualification of specific products is required prior to the opening of bids or the award of negotiated contracts. Testing of a product for compliance with the requirements of a specification in advance of, and independent of any specific procurement action is identified as qualification testing in the specification. Products that successfully pass the required tests are included on a Qualified Products List appropriately identified and related to the pertinent specification. Preparing activities identified in the specification are responsible for qualification.

Subject to approval by: in the case of the Army, the Directorate of Procurement and Production, AMC; in the Navy, the Office of Naval Material; in the Air Force, the Directorate of Systems Services (AFSSV), Headquarters, USAF, and in the Defense Supply Agency, the Executive Director, Procurement and Production; a qualification requirement may be included in a specification when one or more of the following conditions exist:

A. The time required for testing in connection with production would unduly delay delivery of the supplies being purchased;

B. the tests would require special equipment not commonly available;

C. the costs of repetitive testing would be excessive; or

D. the interest of the Government requires assurance, prior to award, that the product is satisfactory for its intended use.

SURVEY OF SPECIFICATIONS WITH QUALIFICATION REQUIREMENTS

The Assistant Secretary of Defense (Installations and Logistics) observing that there were approximately 2,000 general specifications covering a wide range of commodities, and almost as many ancillary documents requiring qualification testing and the establishment of Qualified Products Lists, initiated a study to re-evaluate the entire qualification process so as to determine the following:

A. Are Qualified Products Lists, in fact necessary?

B. If so, are they required to the extent of current coverage?

C. Are the current criteria governing Qualified Products Lists meaningful and realistic?

D. What changes are necessary to more effectively operate and control the qualification process?

In order to arrive at meaningful conclusions leading to the continuation, discontinuance or reorientation of the qualification process, a questionnaire (see Appendix I) was dispatched to the three military departments designed to reveal pertinent information relative to each specification wherein qualification is a requirement. Associations representing a cross-section of American industry dealing with Federal and military specifications were simultaneously asked to submit comments and suggestions relative to qualification approval and the administration of the process.

DEPARTMENTAL RESPONSE

Questionnaires were submitted on 3,560 general and subsidiary specifications. Of the total, Army submitted 721; Navy, 2200; and Air Force, 639. Specifications ranged in age from as much as 18 years to those issued within the past 6 months. In general, departmental response revealed the following: (See Appendix II for statistical compilation.)

A. A substantial number of Qualified Products Lists were issued many years following publication of the specification. Current policy calls for the cancellation or revision of a specification where a Qualified Products List has not been established for one year more than the minimum period of time required for actual examination and testing. In some cases specifications were as much as 10 years old before a Qualified Products

List was issued.

B. Of the total general and ancillary specifications submitted, 695 have no products qualified to them. Of this total, 380 have not been revised for a three year period or longer. 79 have not been revised for a two year period or longer, 62 for an eighteen month period, and 72 for one year or more. The remaining 102 were revised within one year from the time the study was initiated.

C. There are 747 general and ancillary documents having qualified products lists identifying the product of one producer as being qualified. A small percentage of questionnaires contained remarks indicating that additional effort would be made to increase this number or consider elimination of the qualification requirement.

D. The military departments indicated that on 55 documents, qualification had been waived at least once. However, they identified 2,586 documents for which there was no record available on which to determine whether qualification had been waived. It must be assumed that for each procurement to a specification that does not have a Qualified Products List indicating at least one qualified product, a waiver was granted. If procurements were made to all documents, wherein a Qualified Products List had not been established, approximately 20% of the total documents containing qualification requirements would be identified as having a waiver registered against them.

E. 65 general specifications require 100% duplication of qualification tests during conformance inspection. A much larger percentage of specifications repeat all examination except the one time-consuming test, i.e.: storage, life, endurance, aging, etc.

F. Relative to the justification for imposing qualification in a general specification, 971 documents use ASPR paragraph 1-1103(i) - Time required for testing in connection with production would unduly delay delivery of the supplies being purchased; 88 documents use ASPR paragraph 1-1103(ii) - Tests would require special equipment not commonly available; 57 documents use ASPR paragraph 1-1103(iii) - Cost of repetitive testing would be excessive; and 445 documents use ASPR paragraph 1-1103(iv) - Interest of the Government requires assurance, prior to award, that the product is satisfactory for its intended use.

Of the 971 general specifications using "Time for Testing" as the justification, 65 have been identified in E. above as consuming identical time in conformance as is required in qualification testing. An additional 308 documents were identified as requiring a production lead time at least two times greater than the time required for qualification testing, raising the question as to whether qualification could not be eliminated and all required examination performed during production.

G. There appears to be no pattern for reviewing justifications. Questionnaires indicate that justifications are reviewed as a minimum, when specifications undergo revision. Where documents have not required revision in the past 5-10 years, justification has not been reviewed for the same period of time.

H. In nearly 100% of the cases, the departments feel that qualification is necessary in each of the specifications wherein they have required it. The chief reason given for this expression is that qualification prevents undue delay in delivery of products. The statistics bear this out in many cases, but in those mentioned in F above, there is no indication that time in fact is being saved by imposing qualification requirements in the specification.

I. A small group of specifications within a 10-20 year age group maintain qualified products lists containing 20 to more than 100 qualified products from just as many sources. This raises the question as to whether the commodity in question hasn't stabilized to a point where it is a common item or material, available from anyone within the given industry. It would appear that consideration of elimination of qualification in these cases is warranted.

INDUSTRY RESPONSE

Industry associations in general agreed that the qualification process has a place in military specifications. The following is a summary of their comments:

A. Qualification has merit where products are relatively new and for which little experience has been established.

B. Qualified Products Lists, in some cases, are over twenty years old still identifying products now obsolete and no longer required.

C. The time lapsed between approval of a specification and issuance of the QPL is too lengthy.

D. Identification of the QPL to specific revision of the specification is lacking.

E. QPL's do not reflect up-to-date and available products in all cases and time limits for review of, and/or requalification of products is not adhered to or is lacking. Where requalification is required, there is no indication of requalification status in the QPL.

F. Many non-critical items require qualification, a decided waste of effort and money.

G. Test data and detailed test description is not readily available to potential users.

H. Once a product is qualified and placed on the QPL, the process of removal for good cause is difficult, almost impossible. Suppliers are on the QPL who cannot produce in quantity to meet the specification.

I. The QPL serves as a useful buyers' guide to products that have been qualified once to a published specification.

J. Retain the qualification process and strengthen the policies and procedures that govern it.

K. Standardize among the departments relative to the number of qualification reports required of a vendor.

The above represents a cross-section of comments received from pertinent industry associations as expressed by their member companies comprised of both users and manufacturers of products contained in Qualified Products Lists.

ADDITIONAL OBSERVATIONS

It is noteworthy that justifications used for qualification do not indicate equal distribution either within or among the military services. The "Time for Testing" criteria is used a total of 971 times. Within the Department of the Navy this represents close to 90% of their total documents containing qualification requirements and 80% of the total for Army documents. The Air Force on the other hand uses this justification 20% of the time but requires "assurance prior to contract award" 60% of the time. Army and Navy use this as their justification in approximately 10% of the cases. This raises the following questions:

A. Do commodities vary so greatly from service to service as to require different requirements or justification for the requirements?

B. Is the mission of each service so different, that justification for qualification will vary?

C. Are the current criteria valid and meaningful?

As regards the commodity spread, responsibility for specification preparation wherein qualification is required, enjoys an almost equal distribution where items are of common interest. Witness the electronic parts area where all services maintain cognizance over a large percentage of documents. Coupled with this, is the common interest in coordinated specifications and the obvious agreement of all that qualification requirements are to be included in the document. Yet in spite of the common interest, justification appears to be at the discretion of the preparing service. Consequently, one item will be justified in terms of Test Time by one service, and a similar type item in terms of Government Assurance Required, by another service.

Concerning the mission variations, although on the surface appearing to be in variance, parts manufactured by qualified producers have no way of knowing whether they will find their way into equipment contained in aircraft, ships or vehicles. On many specifications, the services maintain that they need assurance of quality prior to contract award so as to guarantee safety in flight. What guarantee is inherent in a product that has been produced one time by a given manufacturer? Does in fact, this one time manufacture, sometimes hand-made, assure quality in production? Obviously not. Quality is controlled only by appropriate measures and examination taken and made during production and it is the good specification that assures this quality through its requirements and conformance testing. This rationale is also applicable to life support equipments as well as all others where poor products endanger life of personnel.

On the basis of the above, it is concluded that current criteria for justification of qualification requirements must be reconsidered. Since the prime concern of the Government is the procurement and use of quality products, and qualification does not guarantee that such quality can be maintained during production, prime consideration becomes production knowledge prior to award of contract relative to tests that are time consuming and costly. That is, where cost may be reduced through the medium of qualification by not repeating lengthy tests and delivery time reduced where these tests are not required to be repeated. These are two of the current criteria, presently delineated in ASPR as paragraph 1-1103(i) and 1-1103(iii). The two are synonymous in that repetitive tests are both costly and time consuming. A statement combining these criteria is the only real justification for specifications to contain qualification requirements.

As regards testing that requires special equipment not commonly available (ASPR justification 1-1103(ii)) this too should be measured in cost in terms of how many dollars such equipment costs to procure or produce. The risk taken by eliminating the conformance tests using special equipment appears to be minimal unless there is correlation between the tests requiring special equipment and the other specified tests. This question warrants reconsideration of this criteria.

It is recognized that in the large majority of cases, time becomes the requirement when storage, aging, endurance, life, etc. are one of the specified tests. Not only would delivery be delayed by repeating such tests in production, but costs would likewise appreciate. Consequently, it is logical to require qualification when this condition exists. However, once conditions stabilize, and products are accepted over a long-term basis from a large percentage of the pertinent industry, the continuing need for qualification should be reconsidered.

It is noteworthy that there are currently 747 specifications wherein the Qualified Products List contains one product, available from one source. Conceivably there are some items contained within this group where only one source is available. But there must be many other reasons why additional producers have not chosen to quality their products or upgrade their products to meet the requirements of the specification. Is one manufacturer being favored because he exceeds all others and the extra advantage is really not necessary? Is testing prescribed in such a manner, that to comply, producers would be priced out of the competitive market? Do some manufacturers feel that their sales and use data reveal that they have the competence to produce satisfactory products without submitting proof prior to contract award? Do still others maintain that their reputation is such that their products will be bought and used by Government prime contractors irrespective of whether they have qualified? All of these areas must be explored when a QPL with one producer remains in existence for any length of time. Likewise, QPL's with no producers for a reasonable period after issuance, must be similarly questioned.

It is further noteworthy that of the 55 documents wherein the departments indicated granting of waiver to qualification requirements, there is a small percentage having Qualified Products Lists with two or more producers. It is reasonably certain that of the 2,586 documents where records were not maintained or available, a sizeable number of waivers are being granted under like conditions. This raises the question as to the reason for waivers, the validity of the requirements and the need for qualification in the specification. Certainly a qualification requirement should be questioned if repetitive waiver becomes necessary.

Relative to industry comments, it is noteworthy that industrial users of QPL's have exhibited mixed reaction to the value of the QPL process. One large company, for example, states that QPL's impart a false sense of confidence to users whereas another, in the same business, supports the process as the most efficient way to obtain products from reputable sources. In spite of the fact that these statements are in conflict, it is reasonable to suspect that both manufacturers are essentially using the QPL as a buyers guide. Where deemed necessary, such companies rely on pre-testing for selection of a vendor and source inspection to attain a degree of quality assurance. Implicit in some of the comments is the fact that many equipment builders maintain their own data on vendors products, applying their own testing programs in order to gain the confidence needed. Even if QPL data is valid and such data is truely representative of production, they maintain that there is a need to know where on the qualification curve a given vendor qualified his product. In critical applications where reliability is an important factor, this becomes extremely important. In the current administration of the process, the Government is obligated to protect the information received from manufacturers unless permitted to do otherwise. The requirement for higher reliability in weapons systems and equipments dictates that this policy be reevaluated.

Vendors whose products are qualified to military and Federal specifications seem to agree that qualification requirements are necessary. One such vendor states that the process is the fundamental cornerstone of an efficient procurement management system. Implied in these comments is the reasoning that the Qualification Process is the means by which garage operations, profiteers, disreputable producers, and the like are kept from Government business. This reasoning was never intended as a justification for qualification and embodied in other regulations is the safeguard against this kind of condition.

CONCLUSIONS

The qualification process is a legitimate procurement technique and is appropriate for implementation in military specifications. However, a review of the statistical data, narrative comments, Armed Services Procurement Regulations, and Defense Standardization Manual M200 policies and procedures on this subject reveals a need for change that will result in the following:

1. Qualification being required in truly justifiable cases,

2. issuance in a timely manner of Qualified Products Lists that are current and up-to-date,

3. enforced requalification requirements and justification reviews,

4. reiteration of the significance of qualification and the need to emphasize quality assurance requirements in specifications rather than to mislead users into believing that qualifying implies the ultimate in quality, and

5. reduction of QPL's to include elimination for non-critical items.

RECOMMENDATIONS

In consonance with the above conclusions, the following recommendations are submitted:

1. Require the military departments to immediately review specifications containing qualification requirements in line with current criteria, policies and procedures. This is to be undertaken by inspecting those documents wherein it has been revealed that

a. qualification tests are identical to conformance tests,

b. production lead time is at least twice that of qualification test time,

c. no products are qualified to the specification and the document is in force for one year more than the minimum period of time required for actual testing,

d. one product is qualified to the specification and the document is in force for one year more than the minimum period of time required for actual testing, and

e. qualification has been waived at least once in the past year.

Accompany this request with the requirement that documents falling into these categories be revised to bring requirements current with the state-of-the-art or cancel the specfication. It is anticipated that in the case of those QPL's containing one qualified source, qualification will be justifiable in some cases.

2. Coordinate the following changes with appropriate elements with a view towards changing current practices, and an over-all strengthening of the qualification process:

a. Change ASPR criteria to incorporate paragraph 1-1103(i) and 1-1103(iii) as the only criteria for justifying qualification.

b. Rewrite Chapter IV of Defense Standardization Manual M200A so as to preclude any justification for qualification but a. above and place the following requisites on qualifying activities:

(1) Provide for requalification requirements in all documents calling out qualification on a periodic basis,

(2) provide evidence of requalification on published QPL,

(3) expedite publication of QPL after issuance of specification,

(4) provide enforced criteria for removal of deficient suppliers from the QPL,

(5) provide an accelerated communication system with QPL users in identification of all additions, changes and removals,

(6) establish periodic time limits for reviewing qualification justification,

(7) establish periodic time limits for reviewing QPL's with a view toward elimination,

(8) establish procedures that provide specification managers with waiver information, and

(9) consider means for making qualification data available to prospective users.

The above recommendations are intended to give more meaning to the qualification process and result in a more efficient means of administering the program.

APPENDIX I

QPL QUESTIONNAIRE

Date of Report______________ Reporting Dept or Activity_________

1. Specification Number.
2. Specification Title.
3. Original Date of Issue.
4. Date of Last Revision.
5. Date of Initial QPL.
6. Date of Last Requalification Requirement.
7. Date of Current QPL.
8. Number of Different Producers Listed on QPL.
9. List of QA tests Repeated in Conformance Testing.
10. Identification of ASPR Criteria used as Justification for QPL Requirement.
    A. Where 1-1103(1) of ASPR is used:
        (1) What is the time required for QA testing?
        (2) What is the production lead time of the item?
        (3) How much time is required for conformance testing?
    B. Where 1-1103(2) of ASPR is used, identify the special test equipment.
    C. Where 1-1103(3) of ASPR is used, what conformance testing is performed.
    D. Where 1-1103(4) of ASPR is used, explain in detail.
11. Has Qualification ever been Waived? If yes, how many times?
12. Date Justification for QPL was Last Reviewed.
13. At What Office Level was QPL Justification Approved?
14. If Qualification is Deleted, what will be the Impact?

INSTRUCTIONS

The Preparing Activity or its authorized agent at the direction of the Preparing Activity, will complete one QPL Questionnaire for each specification containing qualification requirements. This will include coordinated and limited coordinated specifications.

Question 1. Insert the number of the basic specification. Where items are covered by ancillary documents, include ancillary document numbers.

Question 2. Insert the title of the specification. Where items are covered by ancillary documents, include ancillary document titles. Abbreviated titles are acceptable.

Question 3. Insert initial approval date of the basic specification. Where ancillary document dates are different, indicate the date of approval for each ancillary document.

Question 4. Insert approval date of last revision to basic specification. Where ancillary document dates are different, indicate the last revision date for each ancillary document.

Question 5. Insert date initial Qualification Products List was established.

Question 6. Insert most recent date that qualified producers were required to requalify their products. (Extension of qualification to the most recent revision of the specification is not considered requalification.) If ancillary documents are used and the dates differ, identify each ancillary document separately. (Note: requalification may have been required by revision to the basic specification.)

Question 7. Insert date of the Qualified Products List currently in force.

Question 8. Show the number of qualified producers to the current Qualified Products List. Where ancillary documents are used, make a separate entry for each document. Do not list producers by name.

Question 9. List Conformance Tests by paragraph number and title that are identical to tests required for qualification approval. If all tests are identical, insert the word "All".

Question 10. Insert the ASPR paragraph number cited as justification for qualification requirements.

A. Where 1-1103(1) of ASPR is cited, insert answers to 1, 2 and 3 in hours.

B. Where 1-1103(2) of ASPR is cited, list the special equipment by name.

C. Where 1-1103(3) of ASPR is cited, list all required conformance tests by paragraph number and title.

D. Where 1-1103(4) of ASPR is cited, narratively explain.

Question 11. Indicate whether qualification has ever been waived and the number of times waivers were granted. Where ancillary documents are used, list each document separately. Where records of waivers have not been maintained, so state.

Question 12. Self-explanatory.

Question 13. Self-explanatory.

Question 14. Self-explanatory.

APPENDIX II - STATISTICAL COMPILATION

1. ASPR Criteria Used as Justification (Required by General Specifications):

	Army	Navy	AF	TOTAL
1-1103(i)	140	710	121	971
1-1103(ii)	20	44	24	88
1-1103(iii)	4	15	38	57
1-1103(iv)	19	77	349	445
TOTAL (General Specifications)	183	846	532	1561

Analysis:

1-1103(i) is used approximately 60% of the time on an across-the-board basis. Army, however, uses it 76% of the time, Navy, 84% of the time and AF, 22.5% of the time.

1-1103(ii) is used almost equally by all services.

1-1103(iii) is used almost equally by all services.

1-1103(iv) is used approximately 30% of the time on an across-the-board basis. Army, however, uses it 10% of the time, Navy, 10% of the time and Air Force 65% of the time.

2. Number of QPL's with 0 Producers:

Army	-	102
Navy	-	503
AF	-	90
TOTAL		695

		Army	Navy	AF	TOTAL
a.	Number revised in previous 6 months	0	9	1	10
b.	6 months since last revision	19	66	7	92
c.	12 months since last revision	17	51	4	72
d.	18 months since last revision	13	17	32	62
e.	24 months since last revision	16	36	27	79
f.	More than 3 years since last revision	37	324	19	380
	TOTAL	102	503	90	695

Analysis:

Groups e and f likely candidates for QPL elimination totaling 459 QPL's.

3. Number of QPL's with 1 producer:

Army - 88
Navy - 481
AF - 178

TOTAL 747

Analysis: Many candidates for QPL elimination contained in this group.

4. Number of Documents Wherein Qualification and Conformance Testing are Identical:

Army - 1
Navy - 38
AF - 26

TOTAL 65

Analysis: Likely candidates for QPL elimination.

5. Number of Documents Wherein Production Lead Time Exceeds Qualification Test Time by Two Times or More:

Army - 36
Navy - 230
AF - 42

TOTAL 308

Analysis: Likely candidates for QPL elimination.

6. Granting of Waivers:

	Yes	No Record
Army	32	485
Navy	17	1938
AF	6	163
TOTAL	55	2586

Analysis: YES group contains likely candidates for QPL elimination. Conceivable larger number in NO RECORD group.

(DSA66-0-35/401)

NATIONAL TOOLING &
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August 30, 1983

The Honorable Verne Orr
Secretary of the Air Force
Room 4E874
The Pentagon
Washington, DC 20330

Dear Secretary Orr:

Thank you again for inviting members of my staff to visit Tinker Air Force Base to discuss ways of breaking out spare parts. They found the visit to be quite informative and hope that the interchange was helpful to the Air Force also.

Based on the meeting, we have come up with the following findings and recommendations dealing with the problem of non-competitive spare parts procurements.

FINDINGS

1. Only 10% of the dollar value of spare parts and 20% of the number of spare parts procured at Tinker Air Force Base are procured competitively.

2. Despite directives from the Secretary of Defense to increase competition to 30% this year and 40% next year, the amounts procured competitively at Tinker will remain about the same. This is because of existing procurement regulations, lack of data, or the proprietary nature of data. You should be aware that this was the unanimous conclusion of procurement personnel with whom our people met. You will not get more competition unless you change the present regulations.

3. The present breakout program focuses on getting subcontractors and former subcontractors to bid against the primes. Subcontractors are afraid to do so because of the fear of having their subcontracts cut off. This is a reasonable fear as evidenced by threatening letters from prime contractors.

4. Thousands of other small businesses have the capability to make the parts, but are not permitted to do so under the present system.

5. Items which are non-competitive because no technical data is available are often the result of the government purchasing a system without the data in order to save money. The result is not savings but higher total costs and public outrage over the prices paid for spare parts.

6. Government should not have to pay more for original systems to obtain data. OEMs have to generate the data to manufacture the system anyway. The only additional cost is the cost of copying.

7. The responsibility for determining if the government receives data is with the Air Force Systems Command (AFSC). The Air Force Logistics Command (AFLC) must honor contractor proprietary legends unless something blatant occurs, such as a change from unrestricted to proprietary on a modification. There have been several instances of blatant false claims of confidentiality. There is no record of legal action by attorneys for the Air Force or the Justice Department despite the fact that such actions are violations of the False Claims Act.

8. Oklahoma City Air Logistics Center is often unable to determine rights in data needed for competitive procurement because the contracts setting forth the data rights have been destroyed. The primes have refused to provide the Air Force with copies. Legal means are available which could be used by the Air Force to procure the contracts from the primes.

9. The Air Force Competition Advocate program at Tinker has resulted in savings to the government of 16 times the amount expended for the program. However, Tinker Air Force personnel are afraid to request more slots for the program because they fear Congress will take the funds from another part of their budget.

10. In order to bid on restrictively coded items, firms presently have to prequalify on a part-by-part basis. In practice, this means either making a sample or providing evidence that they have made it as a subcontractor. This is costly, restrictive, and contrary to industry practice. Even those companies who make critical spare parts as subcontractors are not required to produce a sample prior to being considered as vendors.

11. It is almost impossible for a small business to compete for spare parts other than those coded "G" unless they have made the part for a prime before.

12. Eleven percent of the non-competitive procurements are non-competitive although technical data is available because OC/ALC engineers deem such parts as critical. These parts are coded "C." Twenty-four percent of non-competitive buys are made because no technical data is available. These parts are coded "D." Twelve percent of the non-competitive procurements are made because technical data is inadequate or incomplete. These parts are coded "H." Twenty-nine percent are made because the original equipment manufacturer alleges that the data involved is proprietary. These parts are coded "P." Twenty-four percent, or all the rest of the non-competitive procurements, are made for miscellaneous reasons such as the need for Class 1 A castings (Code "K"), the need for master tooling (Code "M"), or the need for special test equipment (Code "N").

13. Contractor-recommended codes permitting original equipment manufacturers to recommend the procurement method are no longer used at Tinker. Biased recommendations of the OEMs were found to be useless. However, they are still used at other Air Force bases.

RECOMMENDATIONS

1. Do away with qualification procedures and let everyone bid. Qualification is a waste of both government and private resources because large sums are spent to qualify firms for items that may never be solicited and even if solicited, for which such firms may never be in line for an award. Furthermore, the qualification requirements discourage competition. A small business will not spend substantial sums to qualify to produce an item that may never be bought or, if bought, may not be awarded to them. Qualification also provides no assurance of quality. The fact that a hand-made prototype works does not mean that a mass produced version will. The best means of quality control is the application of accepted quality control techniques. These techniques, which are not presently utilized effectively, include sampling; measuring and testing; and rejecting any products not up to snuff.

2. If qualification procedures are retained, qualification should be done on a generic rather than a part-by-part basis. If a contractor is capable of making a particular part, he also should be capable of making related parts. Furthermore, as previously discussed, contractors are very much afraid of competing against their primes. Although a subcontractor of prime A would be afraid of competing against prime A for such part, he would not be afraid of making a similar part under a prime B system.

3. The government should always purchase all data, including level 3 technical data, as well as special tooling and test equipment for major weapons systems. This should be a clause in every procurement contract without exception. Total costs for the life of a system should be less in every conceivable case. OEMs should be required to supply the names of subcontractors by part number as part of the original contract. Proprietary data should be purchased, with reasonable compensation, on a limited basis for reprocurements for that system only.

4. The Air Force must become much more aggressive in asserting its rights in data. Prime contractors should be required to document rights in data. Spurious claims of business confidentiality should be prosecuted under the False Claims Act and the False Statements Act. If a contract under which data rights are determined has been destroyed, the Air Force should attempt to obtain a copy from the prime. If a prime refuses, the Air Force should bring suit to determine rights in data and obtain a copy of the contract from the prime using discovery procedures. The prime would then be required by law to provide such contract if it still exists. If the contract exists, the government can use it to determine rights in data. If the prime claims that it does not exist, they have no basis for their claim of business confidentiality.

5. Where contractor-recommended codes (under revised AFR 57-6 contractor technical information codes) are solicited from the prime, the Air Force should contract for independent engineering advice to verify the prime's recommendations. This is necessary because of the prime's interest in perpetuating its sole source status. NTMA would be willing to provide such a service.

6. Additional slots should be added to the Competition Advocate program.

We hope that you will find the above to be both informative and constructive. We look forward to working with you in the future toward achieving our common objective of eliminating costly, non-competitive procurements.

Most cordially,

WE Hardman

William E. Hardman
Executive Vice President

WEH:dk

APPENDIX

STATEMENT OF
AEROSPACE INDUSTRIES ASSOCIATION OF AMERICA, INC.
CONCERNING
S. 2489, THE SMALL BUSINESS COMPETITION ENHANCEMENT ACT OF 1984
SUBMITTED TO
COMMITTEE ON SMALL BUSINESS
UNITED STATES SENATE

April 1984

The Aerospace Industries Association of America, Inc. (AIA), representing the nation's major manufacturers of aircraft, aircraft engines, spacecraft, satellites, missiles, and related components and equipment, appreciates the opportunity to submit our comments for the record of your hearings on S. 2489, the Small Business Competition Enhancement Act of 1984. Since the majority of the nation's space and defense needs are met by our member companies, we have necessarily gained broad experience in the complexities of the procurement and acquisition process.

At the outset, it should be stressed that the aerospace industry supports competition at all levels of government procurement, and thus applauds the objectives of S. 2489. AIA finds many of the concepts contained in this measure totally acceptable. We have no real difficulty with using commercial parts, or competitively reprocuring spares where technical data without restriction is readily available. We also support the separate negotiation for data rights necessary for meeting the government's mission requirements and the establishment of a cost-effective technical data management system in the government.

However, we would like to offer the following comments on those provisions most relevant to the concerns of our member companies.

S. 2489 would arbitrarily require the existence of more than two independent sources as a criterion for the adequacy of competition. We have serious doubts that such a requirement is necessary for adequate competition. The number of qualified sources existing at any point in time is a reflection of the independent judgment of suppliers already in a marketplace or desiring to enter that marketplace. The profit motivation is the best guarantee of an adequate number of such sources. We also question the proposed statutory provisions requiring the government to waive or bear the costs of conducting specified testing and evaluation in order to increase the number of qualified suppliers.

The proposed requirement in S. 2489 to post publicly all solicitations below the dollar threshold in the "Commerce Business Daily" will certainly generate costs far in excess of any benefits which may be derived. We believe that current DOD regulations and practices in this area are adequate.

It has been implied, by the bill's authors and some others, that the competitive procurement of spare parts is impossible without complete and unrestricted data and that such technical data packages have been found incomplete or contained markings restricting the government's use for competitive reprocurement. However, there is no evidence that the proposed solution of acquiring technical data packages and rights would increase competition and thus solve the problem. In fact, the acquisition of technical data before a reprocurement need has been defined will only lead to greater problems of storage, updating and retrieval. Furthermore, as the DOD Inspector General has testified before this Committee, "The Department (Defense) can substantially increase competitive procurement, without any changes in the laws or contract clauses that deal with data rights."

It has also been suggested that the system for validating contractor's claims to the right to restrict the use of technical data for the purposes of competitive procurement should be tightened, thus opening up contract competition. In considering this notion, it should be observed that some very successful procuring agencies do not require the contractual delivery of proprietary data. NASA, for instance, accepts form, fit and function data in lieu of proprietary data. Only DOD uses the concept of limited rights data, in other words, data relating to an item developed at private expense. By requiring delivery of such proprietary data for all federal agencies S. 2489 would inevitably lead to a lack of uniformity in federal regulations which is of course contrary to the intent of Congress in establishing the Federal Acquisition Regulation (FAR).

The penalties which would be imposed by Section 6 of this measure are "one way" and, in fairness, should provide a reciprocal right to a contractor. Thus, in those cases where a contractor successfully defends or sustains a marking alleged by the government to be a mis-marking, he should be entitled to an award equal to the negotiated liquidated damages. The cost of successfully defending his marked data should be considered as a charge against the contract. This would inhibit misuse of Section 6. Finally, such sensitive data is a matter between the government and its contractors and a third-party review thereof would be highly improper.

The proposed penalties in the bill would be less of an inhibition to large contractors, who have the resources to absorb the attendant costs, than they would be to small businesses many of which they could readily bankrupt. Driving such small businesses out of the defense market would, in turn, necessarily reduce competition and the industrial base. This would defeat the stated purpose of this legislation, i.e., increasing small business competition in government procurements.

Additionally, the proposal would refute the prime contractor's proprietary position in technical data if a part were made by a subcontractor in accordance with the prime contractor's data. To the extent that such data contains proprietary information, the prime contractor has the same right to prevent subcontractor disclosure of that data without compensation, as he has in refusing to provide the data to the government.

At present, DOD concedes that its Services do not have the capability to manage the data in existing systems. This lack creates significant problems in spares reprocurement. The significant amounts of additional data inevitably resulting from S. 2489 would increase such problems; DOD estimates that improvement of its data system to meet the requirements proposed in current legislation will require 5,000 additional personnel and $2 million in new equipment. We estimate that this will cost the government, in the first year alone, about $600 million. While the other federal agencies may not require such extensive funding, it can reasonably be estimated that costs to the government over the next few years will run into several billion dollars. This inevitably leads to the question of cost benefits, especially at a time of significant budget deficits.

In summary, as to the technical data provisions contained in S. 2489, it is respectfully submitted that such measures will not attain their stated objectives but, on the contrary, will reduce competition, especially with regard to small business, increase costs and adversely impact the defense industrial base. Due to the complexity of the problems associated with the acquisition of data and rights therein, and in view of the various studies currently underway at the direction of Congress and DOD, it is urged that the technical data provisions of S. 2489 be deleted and, if the Committee so desires, made the subject of a separate bill. The AIA member companies are as anxious to enhance competition as is the government, but that goal will not be attained through the government's acquisition of technical data and data rights.

Our statement has addressed the broad issues relating to S. 2489. If the Committee should desire more detailed comments, following its hearings on S. 2489, AIA shall be pleased to respond.

STATEMENT BY CONGRESSMAN TOBY ROTH

SENATE SMALL BUSINESS COMMITEE

MR. CHAIRMAN, IN SEPTEMBER OF 1983 I INTRODUCED LEGISLATION ENTITLED THE THE SMALL BUSINESS COMPETITIVE PROCUREMENT ACT. THIS BILL IS SIMILIAR TO SENATE BILL 1730, INTRODUCED BY SENATOR DIXON OF ILLINOIS ON AUGUST 3, 1983.

ESSENTIALLY, MY BILL HAS TWO AIMS: (1) TO INCREASE SMALL BUSINESS PARTICIPATION IN GOVERNMENT PROCURENET, AND (2) TO REDUCE THE WASTE AND FRAUD THAT HAS BEEN OCCURRING WITHIN THE DEFENSE DEPARTMENT.

IN MY OPINION INCREASED SMALL BUSINESS PARTICIPATION IN GOVERNMENT PROCUREMENT MEANS MORE COMPETITION. MORE COMPETITION MEANS LOWER PRICES TO GOVERNMENT AGENCIES, AND, ULTIMATELY, LOWER COSTS TO THE TAXPAYERS OF THIS COUNTRY. IF PROCUREMENT PROCEDURES HAD BEEN MORE COMPETITIVE, IT IS UNLIKELY THAT WE WOULD HAVE WITNESSED THE RECENT REVELATIONS ABOUT GROSS OVERPAYMENTS FOR SPARE PARTS AT THE DEPARTMENT OF DEFENSE.

BELOW ARE SOME OF THE GROSS COST OVERRUNS THAT HAVE BEEN REVEALED RECENTLY:

* $693 EACH FOR A $1 B-52 LANDING GEAR WASHER

* $437 EACH FOR $1 MEASURING TAPES

* $1,118 EACH FOR $1 PLASTIC CAPS TO COVER THE LEG OF A NAVIGATORS STOOL

* $9,100 FOR A SIMPLE ALLEN WRENCH.

THE LIST OF THESE COST OVERRUNS IS ENDLESS. UNFORTUNATELY, CURRENT PROCUREMENT PROCEDURES, PARTICULARLY AT THE DEPARTMENT OF DEFENSE, ARE GEARED TO SHUTTING OUT COMPETITION. MANY CONTRACTS ARE GIVEN ON A SOLE-SOURCE BASIS, WITH NO BIDDING INVOLVED.

A 1979 NAVY STUDY INDICATED THAT: "THE MAJOR PROBLEM IN SOLE-SOURCE NEGOTIATIONS ARE CONTRACTORS SUBMITTING UNREASONABLY HIGH PRICES, EXTREMELY LONG DELIVERIES, AND OBSTINANCE OR REFUSAL TO NEGOTIATE. THE CONTRACTORS ATTEMPT TO CAPITALIZE IN THESE SITUATIONS BY DELAY AND PRESSURE TACTICS AS MUCH AS POSSIBLE."

FURTHER, SOLE-SOURCE CONTRACTORS "FAIL TO NEGOTIATE IN GOOD FAITH, WHICH CAUSES DELAY IN OBLIGATION OF FUNDS, CONTRACT PLACEMENT RESULTS IN CONTRACTORS INCREASING THEIR PRICES. THIS BECOMES A VICIOUS CYCLE THAT IS UNTENABLE TO THE NEEDS OF THE NAVY."

DESPITE THIS INDICTMENT OF SOLE-SOURCE PROCUREMENT, AT THE PRESENT TIME, ONLY 5 TO 35 PERCENT OF DEPARTMENT OF DEFENSE PROCUREMENT DOLLARS ARE AWARDED COMPETITIVELY, DEPENDING ON WHOSE FIGURES ONE USES. YET STUDY AFTER STUDY INDICATES THAT SAVINGS OF UP TO 50 PERCENT ARE POSSIBLE FROM COMPETITIVE PROCUREMENTS.

A 1980 STUDY, PREPARED BY THE SMALL BUSINESS ADMINISTRATION INDICATED THAT SAVINGS OF 38 PERCENT WERE ACHIEVED WHEN 181 PARTS FOR THE AIR FORCE WERE

BROKEN OUT FOR SMALL BUSINESS COMPETITION. IF ONE CAN SAFELY EXTRAPOLATE FROM THIS FIGURE, APPROXIMATELY $4 BILLION PER YEAR COULD BE SAVED OF THE $10 BILLION PER YEAR NOW SPENT ON SPARE PARTS. IN FACT, THE GRACE COMMISSION PUT THIS FIGURE AT AS HIGH AS $7 BILLION PER YEAR. THE RESULTS OF THESE EARLIER STUDIES CONTINUE TO BE REFLECTED IN MORE RECENT STUDIES BY THE GOVERNMENT ACCOUNTING OFFICE AND THE DEPARTMENT OF DEFENSE'S OWN INSPECTOR GENERAL.

WHILE I AM AWARE THAT THE SECRETARY OF DEFENSE IS MAKING SINCERE AND GENUINE EFFORTS TO CORRECT PROCUREMENT PROBLEMS, I BELIEVE THAT WE IN CONGRESS MUST CONTINUE TO FOCUS ON THE DEPARTMENT OF DEFENSE'S STEPS TOWARDS IMPROVEMENT. UPPER-LEVEL MANAGERS AT DOD MUST CONTINUE TO FEEL THE HEAT SO THAT THEY TAKE STEPS NECESSARY TO IMPROVE PROCUREMENT PROCEDURES AT ALL LEVELS OF THE DEPARTMENT.

HOWEVER, ALL PROCUREMENT PROBLEMS DO NOT RESIDE WITHIN THE DEPARTMENT OF DEFENSE. GOVERNMENT-WIDE, IN THE FIRST QUARTER OF FISCAL 1984, ONLY 38 PERCENT OF FEDERAL PROCUREMENT DOLLARS WERE COMPETITIVELY BID. THE DEPARTMENT OF ENERGY, FOR INSTANCE, AWARDED ONLY 29 PERCENT OF ITS CONTRACT DOLLARS COMPETITIVELY. THAT MEANS A STAGGERING 71 PERECNT OF THE CONTRACT DOLLARS WERE AWARDED NON-COMPETITIVELY. THIS SITUATION HAS GOT TO CHANGE IF WE ARE TO SAVE TAXPAYERS DOLLARS.

IN ORDER TO OBTAIN MAJOR PROCUREMENT SAVINGS, MR. DIXON'S LEGISLATION WOULD MAKE MAJOR CHANGES IN THE WAY THAT AGENCIES, PARTICULARLY THE DEPARTMENT OF DEFENSE, PROCURE GOODS AND SERVICES. THUS, I HAVE NO DOUBT BUT THAT IT WILL

BE CONTROVERSIAL. NONETHELESS, IT CAN SERVE AS A STARTING POINT FOR DISCUSSION WITH THE DEPARTMENT OF DEFENSE AND OTHER AGENCIES AS TO THE BEST WAYS TO INSURE THAT THERE ARE NO REPEATS OF THE RECENT SPARE PARTS SCANDAL.

FROM A GRASS ROOTS PERSPECTIVE, I HAVE BEEN BACK IN MY DISTRICT IN NORTHEASTERN WISCONSIN THREE TIMES IN THE PAST MONTH AND I HAVE SEEN SIZABLE INTEREST IN THE AREA OF COST OVERRUNS FROM MY CONSTITUENCY. MANY TIMES I WAS ASKED "CONGRESSMAN, WHAT ARE YOU DOING ABOUT THE $9,000 WRENCH? ", OR WOULDN'T CUTTING WASTEFUL SPENDING IN THE DEPARTMENT OF DEFENSE HELP REDUCE THE DEFICITS? IT IS MY OPINION THAT THE TAXPAYERS OF THIS COUNTRY ARE FED UP WITH THIS OUTRAGEOUS WASTE OF TAX DOLLARS.

THUS, WHAT IS NEEDED IS IMMEDIATE ACTION IN PROCUREMENT REFORM. WHETHER IT BE SENATOR WEICKER'S BILL, CONGRESSMAN NICHOL'S BILL OR EVEN MY OWN PIECE OF LEGISLATION, THIS PROBLEM OF SOLE-SOURCE COST OVERRUNS MUST BE ADDRESSED. WE MUST FACE THE MUSIC AND ACT ON THIS WASTE OF TAX DOLLARS BEFORE MORE OCCURRENCES OF A $435 CLAW HAMMER CHARGES RESULT.

IT IS SIMPLY A MATTER OF ACTING IN A FISCALLY RESPONSIBLE MANNER! THANK YOU.

STATEMENT OF
SUNDSTRAND CORPORATION
CONCERNING
TECHNICAL DATA MANAGEMENT AND PLANNING TO ENHANCE SMALL BUSINESS COMPETITION
BEFORE THE SMALL BUSINESS COMMITTEE
U.S. SENATE

APRIL 12, 1984

Mr. Chairman and Members of the Committee:

Sundstrand Corporation welcomes the opportunity to address this committee about its concerns regarding the above bill.

Sundstrand Corporation is a diversified OEM supplier of equipment and components to the aerospace, petrochemical, agricultural, construction, marine and industrial machinery markets. Over 60% of the corporation's annual sales of 1 billion dollars comprise aerospace components and parts, these sales being split between commercial and military applications. 50% of our military components and parts sales are made to prime military aircraft and defense contractors with 50% comprising replacement components and spare parts sales. Half the manufacturing load of our major plants is subcontracted to outside vendors and of that business over half is performed by small businesses.

It is Sundstrand's declared strategy to maintain its position as a leader in the design, manufacture and sales of the products we specialize in. We consider that with the passage of this legislation as it pertains specifically to technical data management and the proprietary rights in data of defense contractors, it will no longer be possible for us to pursue this strategy in the aerospace markets of the world. The paper we have attached to this statement entitled "1984 - RESTRUCTURING THE U.S. DEFENSE TECHNOLOGY BASE", sets out our position on this legislation and on the other legislative and regulatory initiatives that have been taken recently regarding spare parts pricing and small business procurement. We wish to emphasize that our concern lies solely with the rights in data provisions of this legislation, not with the other portions of Bill S2489.

Generally, we consider that the pricing practices of the U.S. Government that have led to the reported instances of spare parts pricing could usefully be reviewed and reformed. We welcome fair competition from all businesses in the Government contractor sector and believe that the U.S. will be stronger for it.

Our prime concerns with this legislation are therefore limited to those provisions with potential effects upon Sundstrand's proprietary rights in data. We consider, first, that these provisions will not achieve the purposes for which they are intended and second, that many unforeseen consequences will result from their passage which will devastate not only our business, and the business sector of which we form a part, but also U.S. manufacturing and trade generally.

We feel we must make it clear at the outset that we do not consider, from our experience, that the rights in data provisions of this legislation will result in a reduction of spare parts prices or even assist in that result. First and foremost, we doubt whether, from the serious impact on trade secret law that these provisions will have, any increased competition in quality products requiring any kind of technical development will result, since no business, large or small, is likely to welcome its fundamental proprietary data being taken from it. Secondly, the investment required for the duplication of the production facilities already in existence and the, often short, production runs required for a consistent spares supply business would not be a prudent business investment for most firms. Thirdly, the costs attendant upon the procurement of the immense numbers of data packages involved, the litigation involved in controlling tier upons tier of subcontractor rights in data, the inspection resources required for the resultant multiple-sourced products and the replacement configuration control services required will far outweigh any savings in costs that may be experienced as a result of any increased competition. Finally, we believe that the fact that, in our business sector, i.e. the commercial/defense component supply sector, commercial prices are slightly higher than defense prices for comparable products, carries with it a certain significance. Obviously when one looks at the basic economic rules that underlie pricing there are many reasons for prices to remain at given levels, many being unique to the particular marketplace being addressed. However, it must be said that commercial prices for similar parts must provide some sort of a bench-mark for prices for goods supplied to the Government sector. At the very least, it is obvious that any significant lowering of the relevant prices will result in industries disinvesting themselves of the business.

For all these reasons we do not believe that the rights in data provisions of this bill will succeed in reducing spare parts prices. In that these provisions may result in the expropriation of many businesses' proprietary data, (as soon as the options forced on defense contractors by the pressures of competition and mandated by Sec. 3.(2)(B) of this Bill are exercised,) they may well result in the opposite, providing a positive disincentive to lowering spare parts prices by disincentivizing new businesses from entering the marketplace. Certainly they will force many defense contractors from the marketplace. It is possible, in fact, that, while the other provisions of S2489 may improve the climate of competition in Government procurement, the rights in data provisions may work against the purposes of the balance of the legislation.

With spare parts quantities not increasing, and with the U.S. Government federal funds for procurement being finite, we consider that this legislation will not result in an expansion of industrial opportunities but in a shift in the industrial sectors of the U.S. supplying spare parts to the U.S. Government and a consequential shift in employment within the U.S. In other words, it represents an effort, as House Government Operations Committee Chairman Jack Brooks said of a bill (HR 2133) in the House, to promote "socioeconomic goals", that is, in this case, shifting from the current structure of Government contractors to a new structure of contractors. This new structure of contractors, we might add, will not necessarily include small businesses, at least as far as the consequences of the proprietary data rights are concerned, since it will be those businesses already set up to handle the business that will benefit the most from access to their competitors' data, no high-tech small businesses will wish to run the risk of losing their data to other businesses, and most defense contractors, to protect their commercial business, will have to withdraw work and its accompanying data from their current structure of small business subcontractors. (We understand, from a survey of Aerospace Industry Association members, that approximately 40% of their subcontracted work is performed by small and disadvantaged businesses).

That is what we foresee in the short term. Over the long term, of course, in our commercial/defense component supply sector, employment will be shifted from the U.S. altogether. This will arise from a number of factors. With a decreased return likely from a given investment in product development, there will be less investment available for R&D and plant modernization in our industrial sector leading to the relocation of employment in low wage countries to maintain competitiveness in the commercial marketplace. Since it will be impossible to maintain controls over proprietary data when ownership of that data has passed to the Government, most of our industries' licensing, subcontracting and confidential disclosure agreements will be invalidated as soon as the options provided for in this legislation are exercised to expropriate data rights from the contractors involved. Since this bill is worded in such a way that it is not specifically made mandatory for businesses to give up their rights, we understand that no protection can be expected under the Freedom of Information Act or the other laws pertaining to the confidentiality of information provided to the Government. The end result will be that the commercial aerospace industrial sector, which has figured prominently among the most successful U.S. export sectors in maintaining its position despite the current dismal U.S. balance of payments situation, will be devastated by our international competitors having free access to our data without making any of the same investments in R&D or the same commitment to maintain the skilled work force that U.S. industry must.

We realize that the expectation of the authors of this legislation is that the exemptions already contained in the legislation for technical data for commercial products or components thereof developed at private expense should mitigate against the consequences we have outlined. While we gratefully acknowledge the concerns that have led to the insertion of this language, a number of objections still remain that, we feel, are very difficult to address fully simply by means of mitigating language. Firstly it is clear that the language of the remainder of the bill puts the burden of proof of such wording as "commercial products" and "at private expense" upon the defense contractor. Given the history of procurement practices within the U.S., it is not clear that, in fact, any defense contractor can adequately accommodate such a burden. For example, while Sundstrand aircraft parts may be exactly the same whether used in defense or commercial systems, they carry different part numbers to accommodate the differing DOD and FAA procurement control systems. Giving up the data to one automatically means surrendering the data on the other. Then too, given the long standing practices of IR&D funding, amongst other governmental procurement accounting practices, it is impossible, in our view, to clearly differentiate private from governmental funding without restricting government funding to absolute line item R&D funding as is currrently the interpretation under the DAR.

Secondly, we do not know how foreign courts are likely to interpret these mitigating words in the litigation that is likely to be brought before them as a result of the current rights in data initiatives contained in this and other legislation. It is more than possible that these courts will not see further than the fact that the U.S. has relaxed its previously adamant stand against qualifying its federal patent laws and state trade secret laws to accommodate overriding governmental interests in legislation. While it was possible to accommodate some of these ambiguities in the current procurement regulatory language, elevating this language into federal law carries with it an equal elevation of its potential for damage to our current intellectual property laws.

In preparing this statement, we have concentrated, for simplicity, upon the effects the rights in data provisions of this bill are likely to have upon employment within the U.S. We could have chosen any one of many other problem areas that are likely to result from these provisions, such as the disastrous effect that it is likely to have upon the U.S. uncompromising position upon international intellectual property which it has so grimly clung to for decades in opposition to the compulsory licensing and mandatory limitations on proprietary data so common overseas. We could have addressed the profound impact it will have upon the procurement practices of the U.S. and the quality and reliability of products used in the U.S. defense effort. We have covered many of these problem areas in the accompanying statement we first referred to.

What we would prefer to say, gentlemen, is that, when an effort is made to change the fundamental laws that provide the economic underpinnings of our republic, in this case the patent laws and the U.S. state laws pertaining to trade secrets, and when this country has pressed strongly and generally successfully for these laws to be accepted internationally both by practice and by treaty during this whole century, we feel strongly that common sense and a proper sense of responsibility would demand a proper and full study of the consequences of such an effort prior to the passage of any enabling legislation. We expect that this committee and the Senate as a whole will recognize the seriousness of the changes that are being proposed in these laws. We hope that it will be possible for the Senate to provide an opportunity for the consequences of the rights in data provisions contained in this bill to be fully studied prior to the passage of those sections of the bill containing such provisions.

Thank you for this opportunity to express our views. We offer all the assistance we can to achieve a practical resolution of these concerns.

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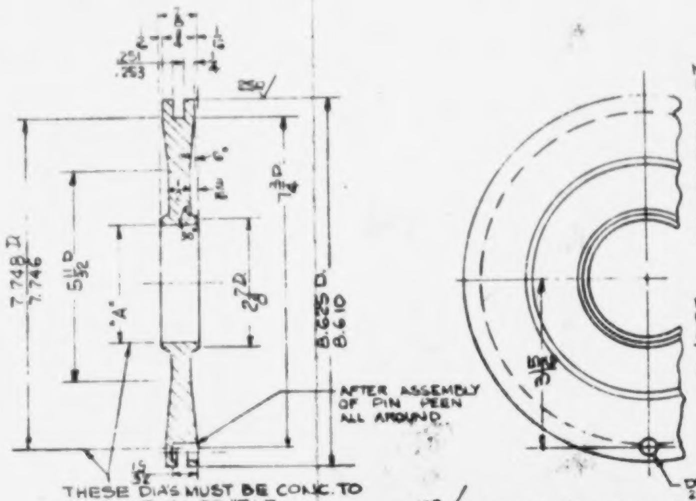
REVISIONS					
REV.	DESCRIPTION	DATE	APPD.	DATE	APPD.
A-1	REVISED PIN DIM	[illegible]	[illegible]	[illegible]	[illegible]
A-2	ADD DRILL 7/16 # [illegible] NOTE #2 & [illegible] NOTE	[illegible]	[illegible]	[illegible]	[illegible]
A	APPD. IN ACCORD WITH BUSHIPS [illegible]	6/6/62	[illegible]		
B	ADDED RINGS P/N 930914-3 & 930914-4 PER BUSHIPS LTR SER 649P-[illegible] APRIL 1963				



THESE DIA'S MUST BE CONC. TO AXIS WITHIN .001" T.I.R.

125 √ F.A.O. EXCEPT AS NOTED

NOTE 1:
MATL. FURN: DUCTILE 'NI-RESIST'
WORTH. DESIG. M-3137
ASTM. A-439 TYPE D-2B

CHEM. COMP.		MECH. PROP.	
C	3.25 MAX	TENSILE	58,000 P.S.I. MIN.
SI	1.75-3.00	YIELD	30,000 P.S.I. MIN.
MN	.70-1.25	ELONG	7%
P	.08 MAX.	B.H.N.	148-211
NI	18.00-22.00		
CR	2.75-4.00		

NOTE 2: CASTING IS TO BE ANNEALED BY HEATING AT 1750-1900°F FOR 1-5 HRS. AND AIR COOLED. REFER TO C.P.E.S. FOR TIME REQ'D. ON HEAT TREATMENT. THIS APPLIES TO P.N. 930914 ONLY.

EXHIBIT ①

DRILL & REAM HOLE TO .4375/.4385 D. TO DRIVE FIT .4386"/.4395" DIA. 17/32" LG PIN. 21/32 TO PT OF DRILL. USE FLAT BOTTOM DRILL. DO NOT DRILL THRU DRILL [illegible]

cf — COARSE — 1000√
rf — ROUGH — 500√
f — REGULAR — 125√
sf — SMOOTH — 32√
ff — FINE — 16√

MACHINIST'S TOLERANCES
UNLESS OTHERWISE SPECIFIED
DECIMAL ± .005"
FRACTIONAL ± 1/64"
R.B.H. 3-17-61

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TRACED 8-16-61
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MASTER DRAWING

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WORTHINGTON CORPORATION
HARRISON, N.J.

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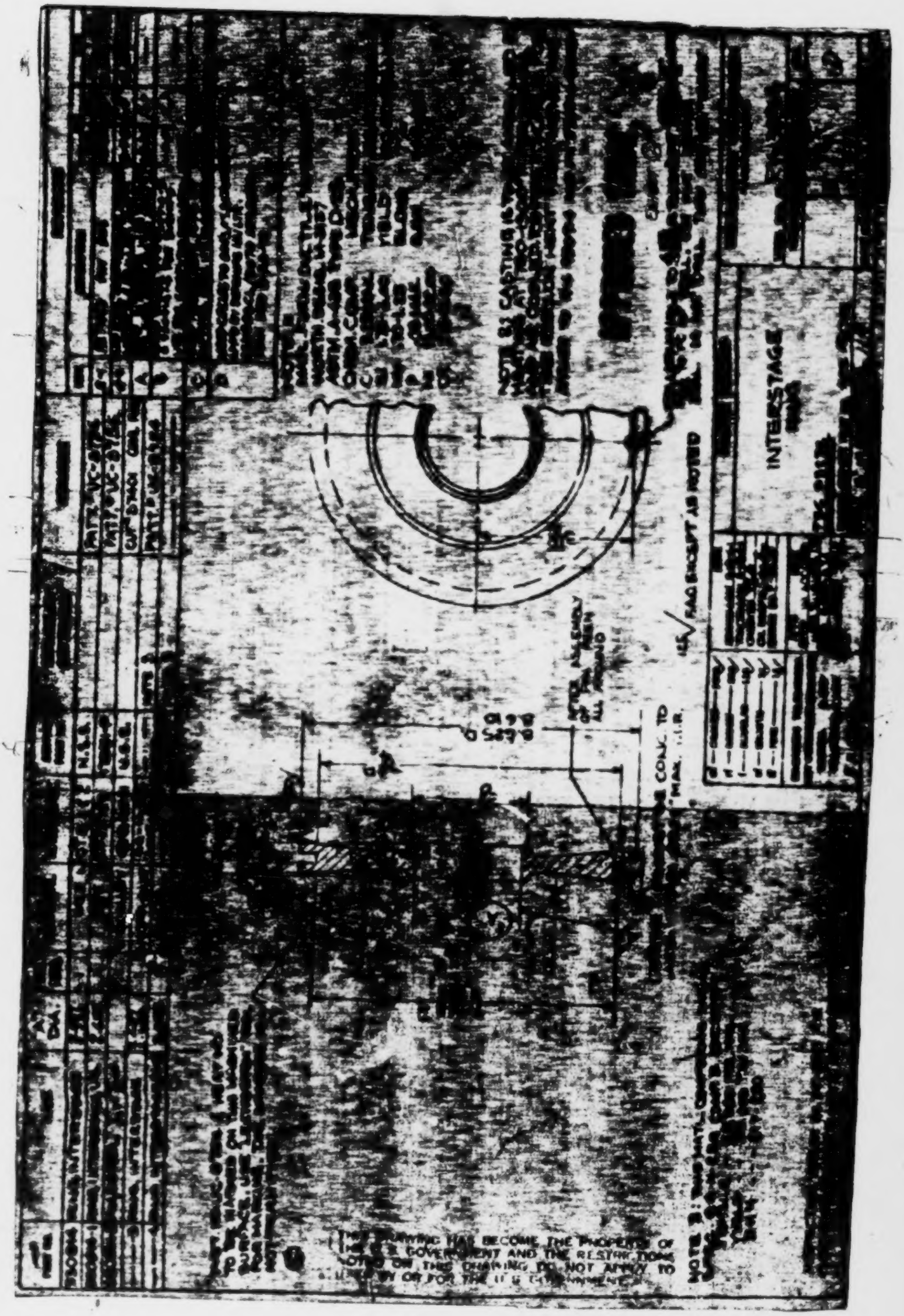

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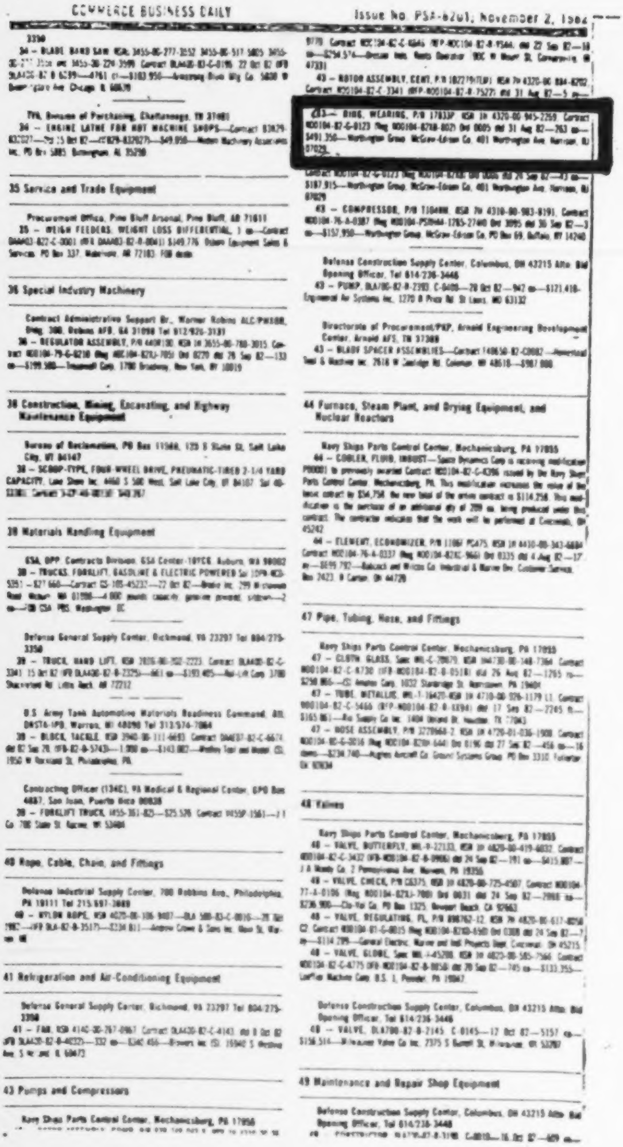

COMMERCE BUSINESS DAILY

Issue No. PSA-8201, November 2, 1982

35 Service and Trade Equipment

Procurement Office, Pine Bluff Arsenal, Pine Bluff, AR 71611

36 Special Industry Machinery

38 Construction, Mining, Excavating, and Highway Maintenance Equipment

39 Materials Handling Equipment

40 Rope, Cable, Chain, and Fittings

41 Refrigeration and Air-Conditioning Equipment

43 Pumps and Compressors

43 — RING, WEARING, P/N 17833P NSN 1H 4320-00-945-2259 Contract N00104-82-G-0123 ... dtd 31 Aug 82—263 ea—$491,350—Worthington Group McGraw-Edison Co. 401 Worthington Ave. Harrison, NJ 07029.

Defense Construction Supply Center, Columbus, OH 43215 Attn: Bid Opening Officer, Tel 614/236-3446

44 Furnace, Steam Plant, and Drying Equipment, and Nuclear Reactors

Navy Ships Parts Control Center, Mechanicsburg, PA 17055

47 Pipe, Tubing, Hose, and Fittings

48 Valves

49 Maintenance and Repair Shop Equipment

EXHIBIT #3

263 each Interstage Ring
@ $1868.25 each

Electronic Industries Association

May 7, 1984

Mr. William B. Montalto
Counsel
Senate Committee on Small Business
United States Senate
Washington, D. C. 20510

Dear Mr. Montalto:

Following up an earlier conversation you have had with Mr. Dan C. Heinemeier, I am pleased to enclose copies of an EIA Components Group Statement concerning the proposed amendment to the Small Business Act, S-2489. I would appreciate inclusion of this statement in the Record.

Please call me if you have any questions.

Sincerely,

Herbert J. Rowe

Herbert J. Rowe, CAE
Senior Vice President

cc: P. F. McCloskey
J. M. Kinn
D. C. Heinemeier
A. Spurney

HJR/pr

Encls.

2001 Eve Street, N.W. · Washington, D. C. 20006 · (202) 457-4900 · TWX: 710-822-0148

THE SMALL BUSINESS COMPETITION ENHANCEMENT ACT OF 1984 - S.2489

(STATEMENT BY
(COMPONENTS GROUP - ELECTRONIC INDUSTRIES ASSOCIATION
(BEFORE SENATE COMMITTEE ON SMALL BUSINESS
(APRIL, 1984

The EIA Components Group is pleased to present its views on this important bill and will address specifically the issues involved with qualification and pre-qualification of small business for Federal procurement.

The Components Group of the Electronic Industries Association (EIA) is an association of 300 U.S. electronic component manufacturers. Approximately one half of these companies qualify as small business and nearly all are involved with Federal Government. The EIA Components Group represents a major segment of the Electronic Industries Association which, with more than 1,000 participating companies, is the full-service national trade organization representing the entire spectrum of companies involved in the manufacture of electronic components, parts, systems and equipment for communications, industrial, government, and consumer-end users. Formed 60 years ago, this association has maintained a continuing dialogue with the Agencies and Congress of the United States aimed at fostering the needs of the Government within the framework of our free enterprise system.

Historically, the EIA has encouraged and helped create a climate for growth of small business within our segment of the U.S. private sector economy. We firmly believe that small business needs to compete on an equitable basis, because such enterprises provide a major source of innovative products that offer the promise of maintaining our technological leadership in the free world.

For these reasons, we are fundamentally in favor of the objectives you are trying to achieve in the discussion draft of S.2489. We believe however, there are a few areas wherein we can suggest some modifications that will further increase the ability of small business to compete while simultaneously minimizing any adverse impact these changes might have on existing procurement systems.

In reviewing the proposed legislation, we find three specific issues that are addressed, pre-qualification, rights in data, and spare parts breakouts. While we plan to address the pre-qualification requirements in detail in what follows, we respectfully offer some general comments first on the latter two issues.

It is our view that the elements of the proposed bill involving data rights, represents a potential step backward in providing entry to the procurement system for a small business. The increased costs to Government inherent in the proposal, coupled with the relatively small percentage of procurement (to our knowledge less than 3%) it would impact, mitigate against providing an economically viable procedure. In addition, we believe assumption of these rights would stifle innovation, thereby restricting the use of the best available technology and cause serious potential degradation of systems reliability. We would respectfully recommend that this issue be eliminated from the bill.

While we concur with the basic concept of spare parts "break out", we are concerned that the provisions currently contained in the bill will invoke the expenditure of funds far beyond the cost savings the proposal purports to achieve.

The restrictions on qualification or pre-qualification, as provided for in Section 4 of this bill are of concern to us in that we see a strong potential for lowering the quality of the products and systems that comprise our industrial mobilization base. It is essential for electronic systems that performance and reliability is verified.

In certain areas of electronic components, a history of reliability and quality has been established through the combined efforts of industry and government procuring agencies. The specifications and standards so derived represent the culmination of years of effort to provide a quality product at minimum cost to Government.

We are opposed to any circumvention of the use of such specifications and standards through an arbitrary finding of an agency not directly involved with their procurement.

We agree that the ability of any business enterprise to meet the qualification needs of an agency should be as simple as possible, and therefore concur with the concept of support to small business in the qualification process. We strongly recommend, however, that the phrasing dealing with the number of companies required to actively compete be stated as "two" rather than "five" as now proposed. Mandating the adherence to the larger number will substantially increase the overall financial burden imposed on the agency without providing a concommitant potential for obtaining a product of appropriate quality. Furthermore, in instances where five companies exist in a market that will only support two, higher unit costs will result to the procuring agency since the product volume required for manufacturers to optimize their efficiency will never be realized. When market potential is ignored, it is not uncommon to find manufacturers, who have made the investment and tooled the product, abandoning the marketplace.

We would further suggest that inclusion of the word "waive" in line 20, Page 6, of the version of the bill is inappropriate for the reasons cited above. We strongly request "waive" be deleted inasmuch as its use is ambiguous. If its use is intended to apply to the "cost of conducting testing and evaluation", we respectfully suggest that such use is a non sequitur. If its use is intended to actually waive testing and evaluation per se, then the inequities involved in the procurement are evident. Beyond these inequities, however, is the real and present danger of creating a climate for the purchase of inferior product by Government agencies--a condition we do not believe was intended and which would adversely impact both systems procurement as well as spare parts procurement.

In the process of aiding small business in its ability to evaluate a prospective solicitation, this act requires that "the number of units and unit price" as well as "aggregate dollar value and number of units procured during the last two fiscal years" be provided to that business concern. The propriety of supplying such information while competing in a free market, as exists in the United States, is highly questionable, especially noting that many components may have originated in the private sector before adoption by the military. We earnestly suggest these requirements be restructured so that no organizaation can gain an unfair competitive advantage in the marketplace. An alternative is to eliminate the requirements from the bill.

Qualification (pre-qualification) is so important for electronic components that a domestic and world-wide system has been developed for commercial and industrial components. This system is called the International Electrotechnical Commission Quality Assessement System or IECQ-System. Over 23 countries are participating. This System has compatible specification and qualification characteristics of the DoD system. It provides for independent third party evaluation of the component source and continuing surveillance of the capability of the quality level required by the specification.

In view of this and previous administrations objectives to adopt commercial standards whenever possible, the IECQ-System is a viable alternative to small business qualification and should be supported. Government procurement agencies have expressed an interest in participating in this System. A brief description of the IECQ-System is appended hereto.

In summary, we believe the bill, as prepared, is fundamentally sound insofar as its objectives toward simplifying access to contracts by small business. Again, as an organization with approximately one half its membership qualifying as small business, we solicit your adoption of our recommendations for maintaining quality and integrity in the Federal procurement procedures and thank you for this opportunity to present these to you.

NATIONAL ASSOCIATION OF WHOLESALER-DISTRIBUTORS
... the national voice of wholesale distribution

1725 K Street, N.W.
Washington, D.C. 20006

202/872-0885

James A. Anderson, Jr.
Director - Congressional Relations
Direct Dial: 202/728-7662

May 7, 1984

The Honorable Lowell Weicker
Chairman, Committee on Small Business
United States Senate
SR-428A Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Weicker:

On behalf of the National Association of Wholesaler-Distributors (NAW), its 119 affiliated national wholesale distribution trade associations and the NAW's aggregate 45,000 members, I am writing to express concern with respect to S. 2489, the Small Business Competition Enhancement Act of 1984 which is scheduled for markup in the Small Business Committee on May 8.

The stated purposes of the draft are consistent with NAW policy with respect to Government procurement. Thus, the bill seeks to eliminate certain major obstacles that now discourage or prevent participation in the Government procurement process by small businesses and would foster increased small business and small disadvantaged business participation in the process.

With respect to development contracts the bill would give "high marks" in the evaluative and negotiation process to proposals that would utilize components that are available within the agency's supply system, the national supply system or are commercially available from multiple sources.

The latter point is particularly important to wholesaler-distributors who would carry component lines that would fit this category. An even more preferable approach would be to grant even "higher marks" for those components commercially available from multiple sources as this would enhance the use of the private sector to a greater degree.

The bill opens up the "qualification" standards and provides procedures for Governmental assistance to become "qualified" where pre-qualification is deemed necessary. This clause would broaden the potential base of Government suppliers and as such should be welcomed.

The bill provides for expanded dissemination of procurement requirements and for a reduction in restrictive technical data practices. These provisions are designed to foster future competition and as such should be supported by small businesses.

However, with respect to limitations on technical data restrictions, the draft provides that contracts include, among other clauses, a clause that prohibits a contractor from limiting the Government's right to ... "purchase directly from a subcontractor any component ... which the subcontactor had previously furnished to the contractor." (Sec. 5(a)(o)(10).

Additionally, Sec. 5(a)(o)(11) would require the contracting agency to ascertain and document "the identity of the manufacturer of a component by requiring the contractor ... to annotate engineering drawings with such information."

Finally, Sec. 5(a)(o)(11) would require the contractor "to maintain a listing of the subcontractors and suppliers from whom it has purchased, or solicitaed to purchase, components included in the major system and granting to the Government the right to obtain a copy thereof."

These provisions encourage the by-pass of one supplier for one at a different level of distribution and could act to reduce wholesaler-distributor access to the procurement process. As such, these provisons fail to recognize the functional contribution of the wholesaler-distributor to the procurement process.

Thus, while NAW believes that the objectives of S. 2489 are sound, we cannot, for the reasons stated, offer our support for the legislation in its current form.

Thank you for your consideration of our views.

Sincerely,

James A. Anderson, Jr.
Director-Congressional Relations

JAA:sh

cc: Members of the Small Business Committee

Comments of M. Terry Westhafer
President
American Retreaders' Association
Submitted to
The Committee on Small Business
of the
United States Senate

My name is M. Terry Westhafer, President of the American Retreaders' Association, Inc. ARA is a national nonal nonprofit trade association representing over 1,000 small business retreader members and their suppliers located nationwide who are engaged in the retreading of tires, the repairing of tires, and the sale of related products and service.

Mr. Chairman, ARA appreciates the opportunity to submit to the Committee on Small Business the following comments in support of S. 2489, the "Small Business Competition Enhancement Act of 1984." In seeking Federal retread contracts, our members face numerous and persistent obstacles. We believe that it would benefit both the Federal government and the small business sector to enhance competition in all sectors of Federal procurement and to eliminate obstacles that prevent qualified small businesses from competing. We also contend that the nation's retreaders should be allowed the opportunity to compete for retreading contracts now being done by the military.

ARA believes that S. 2489 properly addresses many concerns experienced by the small business community, including:

- requires agencies to consider the competitive procurement of "downstream requirements" when making production contracts;
- allows for unrestrictive access to timely information about contracting opportunities;
- specifies improvements so as to enhance the quality of CBD notices to assist small business to make an informal judgement to enter competition;
- establishes a procedure for promptly and effectively reviewing and validating the proprietary data claims asserted by contractors.

As you know, the success and future of the American economy is critically dependent upon the preservation of real opportunity for small business. Small businesses have historically provided much of the growth in jobs and in innovation, as well as being the provider of services and the deliverer of goods.

Recent research conducted for the National Science Foundation revealed that small businesses had been a more prolific source of innovation per research and development dollar than medium or large businesses.

Most small business firms are labor intensive. Currently over half of the nation's labor force is employed by small businesses, and small businesses continue to remain among the leaders in employment creation. Research conducted at the Massachusetts Institute of Technology concluded that between 1969 and 1976 more than 86 percent of new jobs were provided by small businesses employing less than 500 persons. Some 80 percent of the new jobs were provided by firms having 100 employees or less.

Given our nation's current economic and employment difficulties, this committee would be negligent to ignore the resources and potential contributions of small business enterprises. Their innovative spirit, their flexibility to meet new challenges, are crucial to the nation's economic progress. The employment and entrepreneurial opportunities presented by the small business sector are too important to be less than fully realized. The bottom line is that America needs small business formation and growth.

In March 1984 President Ronald Reagan issued his third annual report on the State of Small Business. Recognizing the importance of small business, and responding to the economic needs and demands of this sector, the President asserted: "We will vigorously implement policies against unfair competition with the private sector from the Government or other tax-advantaged sectors of the economy. The procurement process must continue to be simplified and made more accessible to small firms, especially in the important area of spare parts for Government and military purchases." ARA contends that S. 2489 is in line with the President's pronouncement.

We also put forth the following considerations concerning the small business retreading industry:

- Tire retreading recovers great amounts of solid waste.

- Both the Department of Energy and the Environmental Protection Agency have defined the retreading of tires to be the recycling of tires.
- The Department of Energy and the United States Congress have recognized a need to stimulate the retreading industry.
- Tire retreading is a long-standing recycling industry, conserving oil and rubber.
- Tire retreading recovers substantial amounts of rubber polymer.
- And most importantly perhaps, retreading represents a practicable and meaningful way that small business people can aid the country by undertaking a major recycling program.

Mr. Chairman, the American Retreaders' Association urges this committee to act favorably on S. 2489. We believe that small businesses should be more involved in the procurement process and we support the elimination of obstacles that prevent qualified small businesses from competing. And we support the concept of allowing small businesses to compete for work currently being done by the Federal government. ARA believes that a greater use of retreaded tires on government vehicles would provide the Federal government the opportunity to set an example in conservation of valuable resources, recycling, and cost savings.

AMERICAN BAR ASSOCIATION

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1983-84

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June 8, 1984

William B. Montalto, Esquire
Procurement Policy Counsel
Committee on Small Business
United States Senate
Washington, D.C. 20510

RE: S.2489: Small Business Competition
Enhancement Act of 1984

Dear Mr. Montalto:

At the Spring Council Meeting in Boston on April 28, 1984 the Section of Public Contract Law voted in support of the above legislation. Accordingly I am pleased to submit the attached comments regarding this bill for your use and information.

Cordially,

Tom Abernathy

Thomas E. Abernathy, IV

TEA:EP
Enc.
CC: Hon. Ruth C. Burg
James J. Myers, Esq.
Paul G. Dembling, Esq.

COMMENTS OF THE
PUBLIC CONTRACT LAW SECTION
OF THE
AMERICAN BAR ASSOCIATION
ON
S-2489 - "SMALL BUSINESS COMPETITION ENHANCEMENT ACT OF 1984"

The Public Contract Section (PCL Section) of the American Bar Association has reviewed S. 2489 and supports the intent of the bill to encourage competition in the acquisition process. The bill contains many laudable provisions and the comments that follow are offered in an effort to improve certain provisions of the bill.

Section 4 of the bill reduces the requirements for prequalification of potential contractors. The PCL Section agrees that criteria for prequalification standards must in general be made clearer, more specific and more readily available than now is the case. The requirement in this section for a written notification stating the reasons a prequalification requirement is required prior to its promulgation may add administrative time to the acquisition process.

Data Rights Provisions

The bill contains a number of provisions in sections 5, 6 and 7 relating to the identification, management, and acquisition of data rights. The PCL Section supports the general principles in S. 2489 dealing with data. However, the details contained in the bill may impair procurement officials ability to develop the most effective regulations necessary to deal with data rights. The PCL section, as a general matter, urges establishment of only general principles for dealing with data rights coupled with a requirement for procurement agencies to issue regulations after opportunity for public comment which are consistent with the principles. The PCL Section has the following specific comments:

Section 5 of S. 2489 contains detailed provisions relating to technical data management. Our comments on this section are as follows:

Proposed section 15(o)(6) of the Small Business Act would require contractors to prepare information in advance of any challenge to the contractor's restrictive legends to justify any restriction to be asserted for specific items of data. The PCL Section recommends that this provision be limited to requiring a contractor to have an appropriate data management system that would be utilized by the contractor to provide the needed justifications. It is expensive and wasteful to prepare justifications for every item of data in advance of actual need.

Proposed section 15(o)(7) authorizes the government to disclose contractor's proprietary rights data to third parties. The PCL Section strongly objects to this provision. Proprietary data includes a contractor's trade secrets and confidential, commercial or financial information. In order to protect its proprietary data, a contractor would have to agree to allow the government to let this third party review not only the trade secret and confidential commercial or financial information in the data, but also cost records and management information. No contractor should be required or expected to provide such information to a third party without substantial restrictions on the third party's access to and subsequent use of that information.

The PCL section feels that, as a general matter, such access should not be allowed, except in special circumstances where the government can establish compelling need for such access. The third party that receives such information should be placed under tight restrictions which include a requirement that the third party enter into a bilateral agreement with the contractor agreeing to protect the trade secret information. This bilateral agreement should be enforcable against the third party by the contractor. Organizational conflict of interest provisions should also be adopted prohibiting the third party from competing against the contractor.

Proposed section 13(o)(8) provides for liquidated damages to be paid to the government by a contractor in the event that the assertion of limited rights to data by a contractor or its subcontractor cannot be justified to the satisfaction of the government. In other provisions of the bill, the government is allowed to recover its cost of proving that restrictions on data were unwarranted. The liquidated damages impose a penalty on the contractor above these costs which do not relate to any particular injury or damage which the government may suffer. The use of liquidated damages under such circumstances is prohibited in government contracts on due process grounds. The provision is particularly punitive because it would allow the government to impose liquidated damages on a contractor for restrictions placed by subcontractors on their data.

In addition, language should be included which either prohibits cancellation of the restriction by the government pending a final decision on appeal, or permits the contractor to seek injunctive relief in the U.S. District Court pending a final decision on appeal. Otherwise, a contractor has no protection against an unauthorized release. Once proprietary data is disseminated it is no longer protected, and damages may not be an adequate remedy.

Proposed sections 15(o)(9) and 15(o)(10) would modify existing commercial practice and would possibly interfere with longstanding contractual relationships between contractors and subcontractors. Limiting the terms of licensing agreements provides a significant disincentive to the contractor to enter into such agreements. Small businesses may ultimately suffer from such results. The PCL Section recommends that the approach to this issue reflect the current DOD regulations.

Section 6 of the bill deals with contractor's requirements to validate restrictions placed upon data. Proposed section 15(p)(1), (2) and (3) set forth requirements for the contractor to provide justification for restrictions and to allow the contracting officer to cancel any restrictions placed on data if the contractor does not, after appropriate notice, provide justification for the restrictions on data. The section does not provide for an appeal of the contracting officer's decision. The provision, therfore, establishes a unilateral right in the government. The PCL Section recommends that the proposed section parallel the language in proposed section (p)(5) which makes a contracting officer's decision subject to the provisions of the Contract Disputes Act. There is no reason to provide a review under the Contract Disputes Act in one subsection, proposed 15(p)(5), and not in the other subsection.

Proposed section 15(p)(4) allows government agencies to turn over a contractor's limited rights data to third parties. The objection set forth above in the discussion of proposed section 15(o)(7) apply with equal force here.

Proposed section 15(p)(6)(B)(i) would allow the assessment of liquidated damages against the contractor if the contractor cannot justify restricted rights legends. This section parallels proposed section 15(o)(8) and the objections raised to liquidated damages apply with equal force here.

Proposed section 15(p)(6)(B)(ii) allows the government to recover its costs for technically evaluating and auditing restrictions on technical data if the restrictions are not found to be substantially justified. As a matter of equity, a contractor should be allowed to recover its costs of establishing to the satisfaction of the government its rights to apply restricted rights legends. This principle has been recognized in other legislation.

Section 8 of the bill establishes a definition of technical data. The PCL Section recommends two changes to clarify this particular provision. The section now provides that "[t]echnical data does not include computer software. . . ." It should be amended to read as follows: "Technical data does not include computer software and documentation. . . ." This change should be made to clarify a problem that exists in the current DOD regulations from which this definition was taken. As currently drafted, documentation is considered technical data. However, as a practical matter, documentation can be simply the written form of computer software. If computer software is to be eliminated from the definition of technical data, documentation should likewise be eliminated. The DOD regulations recognize this in their treatment of commercial computer software. The PCL Section also recommends that the last sentence of the definition of technical data be clarified. The last sentence of the definition makes clear that technical data does not include technical data for commercial products or components developed at private expense. The PCL Section recommends that this provision make clear that such technical data for commercial products or components includes the manufacturing data for these commercial products or components.

98TH CONGRESS
2D SESSION

S. 2489

To amend the Small Business Act to enhance competition in Government procurement.

IN THE SENATE OF THE UNITED STATES

MARCH 29 (legislative day, MARCH 26), 1984

Mr. WEICKER (for himself, Mr. DIXON, Mr. KASTEN, Mr. RUDMAN, Mr. NICKLES, Mr. SASSER, Mr. NUNN, Mr. DANFORTH, Mr. CHILES, Mr. D'AMATO, Mr. MOYNIHAN, Mr. HATCH, Mr. PRYOR, Mr. ABDNOR, Mr. BAUCUS, Mr. BOREN, Mr. HUDDLESTON, Mr. HECHT, Mr. FORD, Mr. HEFLIN, Mr. LEAHY, Mr. PELL, and Mr. SARBANES) introduced the following bill; which was read twice and referred to the Committee on Small Business

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A BILL

To amend the Small Business Act to enhance competition in Government procurement.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Small Business Competition Enhancement Act of 1984".

PURPOSES

SEC. 2. The purposes of this Act are to—

(1) eliminate Federal procurement procedures and practices which discourage or prevent participation by new competitors for Government contracts, especially small business concerns;

(2) use Federal contracting opportunities as a means to expand our Nation's industrial base, and thereby enable it to respond more quickly to the increased demands of the defense and civilian agencies in times of national emergency;

(3) reduce the number of noncompetitive contract awards; and

(4) foster increased small business and small disadvantaged business participation in the Federal procurement process.

PLANNING FOR FUTURE COMPETITION

SEC. 3. Section 15 of the Small Business Act is amended by adding at the end thereof the following:

"(m) To encourage the competitive acquisition of requirements to maintain a major system during its service life, the head of the Federal agency with responsibility for that system shall ensure that—

"(1) the following are accorded weight as evaluation considerations in any competitive solicitation for the award of any development contract for a major system, to the maximum extent practicable considering the purposes for which the system is being procured:

"(A) Proposals to incorporate in the design of the major system components which are currently available within the supply system of the Federal agency responsible for the major system, available elsewhere in the national supply system, or commercially available from more than one source; and

"(B) Proposals to incorporate in the design of the major system components whose associated technical data will permit the agency to competitively acquire components that are likely to be required in substantial quantities during the system's service life; and

"(2) the following are accorded substantial weight as evaluation considerations in any competitive solicitation for the award of any production contract for such major system:

"(A) Proposals to identify components in the system that are likely to be required in substantial quantities during the system's service life and which provide for a predetermination as to whether the technical data associated with such components will be restricted for further use;

"(B) Separately priced options for the purchase or licensing of such restricted technical data by the Federal agency so as to permit the competitive acquisition of requirements for such components; and

"(C) Proposals to expand the participation of small and small disadvantaged business concerns in meeting the requirements of the prime contractor.

The foregoing evaluation considerations also shall be considered as negotiation objectives in making a noncompetitive award of a development contract or a production contract for a major system. The application of any of the requirements specified in paragraph (2) (A) or (B) of this subsection may be waived if the contracting officer determines in writing that such requirement would not be applicable to the production contract or otherwise would not be in the best interests of the Government in attaining the purposes for which the system is being procured, stating the reasons therefor. Such determination shall be made a part of the contract file.".

ENCOURAGING NEW COMPETITORS TO BROADEN THE INDUSTRIAL BASE

SEC. 4. (a) Section 15 of the Small Business Act is amended by adding at the end thereof the following new paragraph:

"(n)(1) Before a Federal agency may establish any prequalification requirement, the Federal agency shall—

"(A) prepare a written justification stating the reasons for the restriction and why free and open competition is not feasible;

"(B) specify in writing and make available upon request all standards which a prospective contractor, or its product, must meet in order to become qualified, such standards being limited to those least restrictive to attain the objective stated as the justification for the restriction;

"(C) provide a prompt opportunity for a prospective contractor to demonstrate its ability to meet the standards specified for qualification, utilizing qualified personnel and facilities of the agency or another agency obtained through interagency agreement, or the services of a private contractor: *Provided*, That any testing and evaluation services provided by a private contractor should, whenever possible, be provided by a contractor other than a contractor who could reasonably be expected to benefit from an absence of additional qualified sources and such contractor shall be required to adhere to any restrictions on technical data asserted by the prospective contractor seeking qualification; and

"(D) inform the prospective contractor promptly as to whether qualification has been attained, or in the event qualification has not been attained, information sufficient to specifically inform the prospective contractor why qualification was not attained.

"(2) Before a Federal agency may enforce any existing prequalification requirement on an offeror or its product, the Federal agency shall, upon request, comply with the requirements of paragraph (1) of this subsection. A Federal agency need not delay a procurement action in order to provide a prospective contractor with an opportunity to demonstrate its ability to meet the standards specified for qualification.

"(3) In the event that the number of currently qualified sources or qualified products available to actively compete for anticipated future requirements is fewer than five, the Federal agency shall—

"(A) periodically publish notice in the Commerce Business Daily soliciting additional sources or products to seek qualification; and

"(B) waive or otherwise bear the cost of conducting the specified testing and evaluation, but excluding the costs associated with producing the item or establishing the production, quality control, or other system to be tested and evaluated, for a small business concern or a product manufactured by a small business concern, ultimately determined to be qualified.

The Federal agency may request a certification from a prospective contractor seeking the waiver or reimbursement of testing and evaluation costs as to its status as a small business concern, and, in good faith, rely thereon. Nothing herein shall prohibit a Federal agency from funding, either before or after testing, some or all of the costs incurred by a small business concern in producing the product to be tested. The Federal agency may fund some or all of the cost of production and qualification for additional small business sources or the products manufactured by such sources beyond the five if the Federal agency determines that such additional qualified sources or products will expand the industrial mobilization base or is likely to result in cost savings from increased competition for future requirements sufficient to amortize the costs incurred by the Federal agency.".

(b)(1) Section 8(e) of the Small Business Act is amended—

(A) by inserting before the semicolon at the end of subparagraph (3)(A) a comma and "and includes, as appropriate, agency nomenclature, National Stock Number or other part number, and system application, all amplified by a brief description relating to the item's form, fit or function, physical dimensions, predominant material of manufacture, or similar information to assist a prospective contractor to make an informed business judgment as to whether a solicitation should be requested";

(B) by redesignating subparagraphs (B) and (C) of paragraph (3) as subparagraphs (C) and (E), respectively;

(C) by inserting after subparagraph (A) of paragraph (3) a new subparagraph (B) as follows:

"(B) a procurement history and forecast of requirements, to the extent available, including—

"(i) date of last award and price thereof, number of units and unit price, time for performance, and whether the last contract was awarded competitively;

"(ii) aggregate dollar value and number of units procured during the last two fiscal years; and

"(iii) number of additional requirements (expressed in the same unit term as the procurement history) estimated for procurement during the remainder of the current fiscal year and each of the two succeeding fiscal years;";

(D) by inserting after subparagraph (C) of paragraph (3), as redesignated, a new subparagraph (D) as follows:

"(D) notations as to whether—

"(i) the solicitation will reference technical data which a prospective contractor will be required to obtain from other governmental sources prior to submitting an offer; and

"(ii) a prospective offeror or its product must be prequalified in order to have its offer considered for award and identify the office from which the standards specified for prequalification may be obtained;"; and

(E) by redesignating paragraph (6) as paragraph (7) and inserting a new paragraph (6) as follows:

"(6) In order to further carry out the requirements of this subsection and section 223(a) of the Act of October 24, 1978 (Public Law 95-507, 15 U.S.C. 637b), each Federal agency shall—

"(A) publicly post in either full text or abstract format any solicitation which would have been synopsized in the Commerce Business Daily if it had equalled or exceeded the applicable dollar threshold for such publication, and

"(B) reasonably make available to any small business concern, or to the authorized representative of such concern, the complete solicitation package for any solicitation posted in abstract format and permit the copying thereof.

A Federal agency may require the payment of a fee, not exceeding the actual cost of duplication.".

(2) Section 8(d)(1) of the Small Business Act is amended by adding at the end thereof the following new sentence: "It is further the policy of the United States that small business concerns, and small business concerns owned and controlled by socially and economically disadvantaged individuals, shall have the maximum practicable opportunity to participate in the performance of contracts and subcontracts for appropriate portions of subsystems, assemblies, components, and related services for major systems.".

(3) Section 8(d)(3)(A) of the Small Business Act is amended by adding at the end thereof the following new sentence: "It is further the policy of the United States that small business concerns, and small business concerns owned and controlled by socially and economically disadvantaged individuals, shall have the maximum practicable opportunity to participate in the performance of contracts and subcontracts for appropriate portions of subsystems, assemblies, components, and related services for major systems.".

TECHNICAL DATA MANAGEMENT TO FOSTER FUTURE COMPETITION

SEC. 5. (a) Section 15 of the Small Business Act is amended by adding at the end thereof the following—

"(o) To foster competition for the acquisition of requirements to maintain a major system during its service life, the head of the Federal agency with responsibility for the system shall insure that the initial and all subsequent production contracts contain appropriate provisions related to technical data, including—

"(1) specifying the technical data deliverable under the contract, and a delivery schedule therefor, including options for deferred delivery or multiple deliveries;

"(2) establishing criteria for determining the acceptability of technical data to be delivered under the contract;

"(3) establishing separate payment lines relating to the delivery of technical data under the contract and authorizing the withholding of payments for failure to make timely deliveries of acceptable data;

"(4) specifying the respective rights of the Government and a contractor or subcontractor regarding technical data to be submitted under the contract, including therein a definition of the phrase 'developed at private expense';

"(5) identifying, in advance of delivery, technical data which is to be delivered with restrictions on the Government's rights in such data;

"(6) requiring the contractor to prepare or cause to be prepared in advance of delivery, and retain, a justification for any restriction to be asserted by the contractor or any subcontractor limiting the Government's rights in such data;

"(7) authorizing the Government to disclose limited rights data to a contractor retained by the Government solely for the purpose of reviewing the justification for the limitation placed on the data, and requiring such contractor to strictly adhere to any restrictions placed on the data;

"(8) specifying liquidated damages to be paid to the Government by the contractor or by a subcontractor in the event that the Government's challenge to a limitation on the Government's rights in technical data asserted by the contractor or a subcontractor is sustained;

"(9) prohibiting a contractor from requiring a subcontractor or the Government to pay a fee, royalty, or other charge for the subcontractor's use of any technical data, except that protected by patent, in the performance of a contract to furnish a component or other requirement directly to the Government, if the same technical data was furnished or otherwise made available by the contractor to the subcontractor for the performance of a contract between them;

"(10) prohibiting the contractor from limiting, either directly or indirectly, the Government's right to purchase directly from a subcontractor any component or other requirement which the subcontractor had previously furnished to the contractor without restriction;

"(11) ascertaining and documenting the identity of the manufacturer of a component by requiring the contractor, and each subcontractor at every tier, to annotate engineering drawings with such information; and

"(12) requiring the contractor, and each subcontractor at every tier, to maintain a listing of the subcontractors and suppliers from whom it has purchased, or solicited to purchase, components included in the major system and granting to the Government the right to obtain a copy thereof.

The application of any of the provisions specified in this subsection may be waived if the contracting officer determines in writing that any such provision would not be applicable to the production contract, or otherwise would not be in the best interests of the Government in attaining the purposes for which the system is being procured, stating the reasons therefor. Such determination shall be made part of the contract file.".

(b)(1) Within one year after the date of enactment of the Small Business Competition Enhancement Act of 1984, each Federal agency shall develop a plan for the management of technical data received under contracts for the development, production, modification, or maintenance of major systems within its jurisdiction. Among other matters, the management plan shall address—

(A) inventory of existing data;

(B) procedures for indexing, storing, and updating items of technical data entered into the system;

(C) techniques for verifying contractor-imposed limitations on the Government's rights to make future use of the data in competitive acquisitions; and

(D) procedures to assure that agency procurement officials and qualified prospective contractors will have timely access to complete and current technical data for the competitive acquisition of requirements for the maintenance of the system during its service life.

(2) Within 5 years after the date of enactment of the Small Business Competition Enhancement Act of 1984, each Federal agency shall complete implementation of the man-

agement plan required by paragraph (1), and include the technical data for each currently operational major system within its jurisdiction.

(3) Not later than eighteen months after the enactment of this section, the Comptroller General of the United States shall transmit to the Congress a report evaluating the plans of selected Federal agencies for the management of technical data for major systems within their jurisdiction. The report shall include an evaluation of the plans of the Department of Defense, the Department of Energy and the Department of Transportation, and the National Aeronautics and Space Administration.

VALIDATING PROPRIETARY DATA RESTRICTIONS

SEC. 6. Section 15 of the Small Business Act is amended by adding at the end thereof the following:

"(p)(1) In order to competitively procure the maximum number of components needed to maintain a major system during its service life, a review of the validity of any restriction on the Government's rights in technical data furnished under contract shall be initiated by the contracting officer, if the contracting officer, an agency advocate for competition, or an authorized representative of the Administration determines such a review is warranted.

"(2) Upon the request of the contracting officer, the contractor shall submit its justification for the asserted restriction on the Government's rights in such data, certifying to the current validity of the asserted restriction within—

"(A) 60 days, if the contract contains a provision that requires the preparation and retention of a written justification for any restriction limiting the Government's rights in technical data to be delivered under the contract, or

"(B) 180 days, if the contract does not contain such a provision.

"(3) Upon a failure to submit any justification, as required by paragraph (2) of this subsection, the contracting officer shall, after notice to the contractor, promptly cancel the restriction on the Government's rights in technical data for which justification had been requested.

"(4) If after review of the justification submitted pursuant to paragraph (2) of this subsection, the contracting officer determines that the justification for the restrictions on the Government's rights in the data does not adequately support the restrictions, the asserted limitation on the technical data and the justification therefor shall be promptly subjected to technical review and audit by qualified personnel of the agency or another Federal agency obtained through interagency agreement, or a private contractor who is capable of providing an impartial review and who shall be required to adhere to any asserted restrictions on technical data.

"(5) If after reviewing the findings of the technical review and audit, it is determined that the limitation on the Government's rights in the data warrants challenge, the contracting officer shall issue a final decision pertaining thereto which shall be subject to the provisions of the Contract Disputes Act (41 U.S.C. 601 et seq.).

"(6) If the Government's challenge to the restriction on the Government's rights in technical data as certified pursuant to paragraph (2) of this subsection is sustained, upon final disposition—

"(A) the restriction on the Government's rights in technical data shall be cancelled; and

"(B) the contractor shall be liable to the Government for—

"(i) the liquidated damages specified in the contract; and

"(ii) the Government's cost of technically evaluating and auditing the asserted restriction, and the fees and other expenses, as defined in section 2412(a)(2)(A) of title 18, United States Code, incurred by the Government in challenging the asserted restriction, if the asserted restriction, as certified, is found not to be substantially justified, unless special circumstances would make such awards unjust.".

BREAKOUT PROCUREMENT CENTER REPRESENTATIVES

SEC. 7. Section 15 of the Small Business Act (15 U.S.C. 644) is amended by adding at the end thereof the following:

"(q)(1) The Administration shall assign to each major procurement center a breakout procurement center representative, with such assistance as may be appropriate, who shall be an advocate for the competitive procurement of the center's requirements and be responsible for executing the functions described under paragraph (2). Any breakout procurement center representatives appointed under the authority of the preceding sentence shall be distinct from and in addition to any procurement center representatives who may be, from time to time, assigned by the Administration to various procurement centers for the purpose of advocating increased small business participation.

"(2) The breakout procurement center representative is empowered to—

"(A) participate as a regular member of any provisioning conference, or similar evaluation session relating to maintaining a major system during its service life, during which determinations are made as to whether requirements are to be procured through other than free and open competition;

"(B) review, at any time, restrictions on competition previously imposed on requirements through acquisition method coding or similar procedures, and to request prompt reevaluation of such limitations on competition by agency personnel;

"(C) review restrictions on competition arising out of restrictions on the Government's rights in technical data and, when appropriate, recommend that the contracting officer initiate a review of the validity of such an asserted restriction;

"(D) obtain from any governmental source technical data suitable for the preparation of a competitive solicitation package for any requirement previously procured noncompetitively due to the nonavailability of unrestricted technical data and make it available for validation by appropriate procurement center personnel; and

"(E) have access to the unclassified procurement records and other data of the procurement center so as to facilitate effective discharge of the foregoing functions and to permit the preparation of complete and accurate reports to the Administration.

"(3)(A) Each Federal agency having one or more major procurement centers shall assign technical advisors to each major procurement center to which the Administration has assigned a breakout procurement center representative.

"(B) Technical advisors assigned under this paragraph shall be—

"(i) full-time employees of such agency;

"(ii) colocated with the assigned breakout procurement center representative; and

"(iii) fully qualified, technically trained, and familiar with the supplies and services procured by the major procurement center.

At least one such technical advisor position shall be classified as requiring an accredited engineer.

"(C) The primary duty of a technical advisor assigned under this paragraph shall be to assist the breakout procurement center representative for the center to which such advisor is assigned in carrying out his functions.

"(4) There are authorized to be appropriated to the Administration such sums as may be necessary to carry out the provisions of this subsection.".

DEFINITIONS

SEC. 8. Section 3 of the Small Business Act is amended by adding at the end thereof the following:

"(j) For the purpose of this Act and section 5(b) of the Small Business Competition Enhancement Act of 1984, the term—

"(1) 'component' means any individual part, subassembly, assembly, or subsystem integral to a major system, which may be replaced during the service life of the system. The term includes spare part and replenishment spare part. The term does not include packaging or labeling associated with shipment or identification of a 'component';

"(2) 'major procurement' center means a procurement center that awarded contracts for components other than commercial items totaling at least $150,000,000 in the preceeding fiscal year;

"(3) 'major system' means a combination of elements that will function together to produce the capabilities required to fulfill a mission need. The elements may include hardware, equipment, software or any combination thereof, but excludes construction or other improvements to real property. A system shall be considered a 'major system' if: (a) the Department of Defense is responsible for the system and the total expenditures for research, development, test and evaluation are estimated to be more than $75,000,000 (based on fiscal year 1980 constant dollars) or an eventual total expenditure for procurement of more than $300,000,000 (based on fiscal year 1980 constant dollars); or (b) a civilian agency is responsible for the system and total expenditures for the system are estimated to exceed $750,000 (based on fiscal year 1980 constant dollars) or the dollar threshold for a 'major system' established by the agency pursuant to Office of Management and Budget (OMB) Circular A–109, entitled 'Major Systems Acquisitions', whichever is greater, or (3) any system designated a 'major system' by the head of the agency responsible for the system;

(4) 'technical data' means recorded information, regardless of form or characteristic, of a scientific or technical nature. It documents research, experimental, developmental or engineering work, or is usable or used to define a design or process or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design-type documents; or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications and related information. Technical data does

not include computer software, financial, administrative, cost or pricing, and management data, or other information incidental to contract administration. 'Technical data', as herein defined, does not include technical data for commercial products or components thereof developed at private expense.".

EFFECTIVE DATE

SEC. 9. (a) Except as provided in subsection (b), the amendments made by this Act shall take effect upon the expiration of 180 days following the date of enactment of this Act.

(b) The amendment made by section 7 and the provisions of section 5(b) of this Act shall take effect on the date of enactment of this Act.

98TH CONGRESS
2D SESSION

S. 2434

To amend section 15 of the Small Business Act.

IN THE SENATE OF THE UNITED STATES

MARCH 15 (legislative day, MARCH 12), 1984

Mr. BOSCHWITZ (for himself, Mr. ANDREWS, Mr. KENNEDY, and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on Small Business

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A BILL

To amend section 15 of the Small Business Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 15 of the Small Business Act (15 U.S.C. 644) is amended by—

(1) redesignating subsection (l) as subsection (m); and

(2) inserting after subsection (k) the following new subsection:

"(l)(1) The administration shall assign to each major procurement center a breakout procurement center representative, who shall, with respect to such center, be responsible for implementing and executing the functions and duties described under paragraph (2). A representative appointed to a procurement center under the preceding sentence shall be in addition to the representative referred to in subsection (k)(6).

"(2) The breakout procurement center representative referred to in paragraph (1) shall—

"(A) review procurement method codes to ensure that small business capabilities are fully considered, and conduct independent studies and evaluations necessary to change the use of restrictive codings in order to encourage increased competition;

"(B) review procurement requirements proposed or projected to be purchased under consolidated solicitations which limit the opportunity for small business to compete as prime contractors and to recommend reducing the number of these requirements to be contained in each such solicitation in order to promote the maximum practicable opportunity for small business concerns to submit offers in response to such solicitations;

"(C) review and, when appropriate, conduct a value analysis of an engineering change proposal received from any source to determine whether such proposal, if adopted, will result in lower costs to the Government without substantially impeding legitimate acquisition objectives; and

"(D) review the systems that account for the access to and ownership of all manufacturing data within that procurement center to assure such systems provide the maximum availability to small business concerns; and

"(E) in consultation with the administration—

"(i) suggest to the head of the procurement center changes in procurement policies and procedures for such center; and

"(ii) recommend to the head of the appropriate purchasing activity changes to procurement method codes based on findings under subparagraph (A) and the desirability of value engineering change proposals as determined pursuant to subparagraph (C). The head of such activity shall, within thirty days after the receipt of such a recommendation, issue a written decision either accepting or declining the recommendation. Any written decision declining such a recommendation shall include the reasons and justifications therefor.

"(3)(A) The Director of Small and Disadvantaged Business Utilization of each agency having a major procurement center shall assign, and colocate, four small business technical advisers to each major procurement center.

"(B) Technical advisers assigned under this paragraph shall be—

"(i) full time employees of the procuring activity; and

"(ii) well qualified, technically trained, and familiar with the supplies, services, and spare parts purchased at the activity.

At least one such adviser shall be an accredited engineer.

"(C) The sole duty of a technical adviser under this paragraph shall be to assist the breakout procurement center representative for the center to which such adviser is assigned in carrying out the functions and duties referred to in paragraph (2).

"(4) For purposes of this subsection a procurement center shall, with respect to any fiscal year, be considered to be a major procurement center if such center processed a contract volume of not less than $150,000,000 in spare parts in the preceding fiscal year, as determined under regulations prescribed by the administration.

"(5)(A) Whenever the officer or employee of the Government authorized to determine whether to increase the rate of basic pay of a breakout procurement representative under section 5335 or 5402(b) of title 5, United States Code, determines that the amount of the savings achieved for the Government by the representative in carrying out the functions and duties described in paragraph (2) during any period is significant, the officer or employee may—

"(i) increase, under such section, the rate of basic pay of such representative without regard to the length of the period which has elapsed since the previous increase under such section; or

"(ii) pay a cash award to such representative, as provided in subparagraph (B).

A breakout procurement representative may not receive both an increase in the rate of basic pay under clause (i) and a cash award under clause (ii) with respect to the same period of service.

"(B) A cash award paid under subparagraph (A) by reason of costs saved during any period shall be an amount not less than $500 and not more than—

"(i) $5,000; or

"(ii) an amount equal to one per centum of the total amount of such costs saved during the period,

whichever is less.

"(C) A cash award may not be paid with respect to any cost savings resulting in any part from collusion or fraud between any employee of the major procurement center to which the breakout procurement representative is assigned and any supplier of parts procured by the center.".

SEC. 2. Section 15(h) of the Small Business Act (15 U.S.C. 644(h)) is amended by—

(1) inserting "(1)" immediately after "(h)"; and

(2) adding the following new paragraph:

"(2) The Comptroller General shall annually prepare and submit to the Committees on Small Business of the House of Representatives and of the Senate a report setting forth—

"(A) the cost savings achieved during the year covered by such report through the efforts of breakout procurement center representatives;

"(B) an evaluation of the extent of increased competition resulting from such efforts; and

"(C) such other information as the Comptroller may deem appropriate.".

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